

Readiness Assessment for Cross-Border Paperless Trade: MONGOLIA

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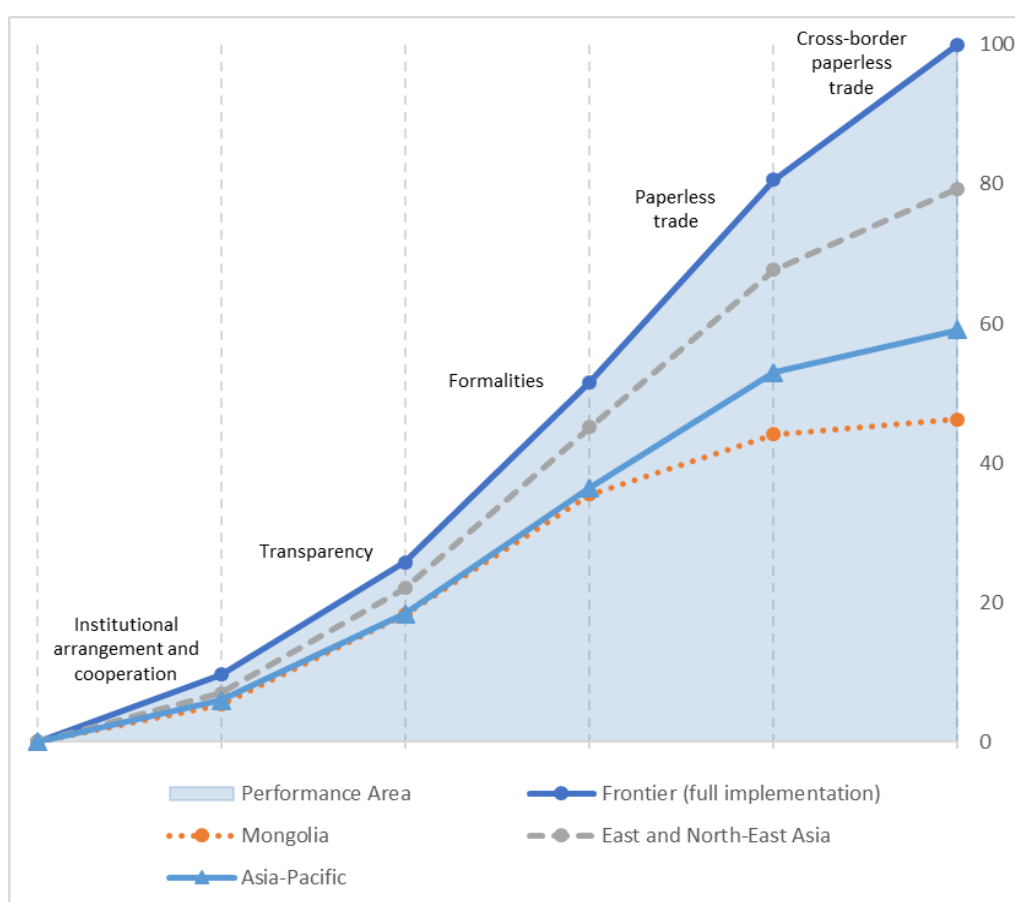
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Executive Summary

This report provides an assessment of Mongolia's readiness for cross-border paperless trade, i.e., the conduct of international trade on the basis of electronic data and documents. Following a brief state of play of trade facilitation implementation in Mongolia, findings from the technical and legal readiness assessments for cross-border paperless trade are presented. Recommendations on both technical and legal aspects of cross-border paperless trade are then provided, followed by an initial action plan for Mongolia to move forward.

Mongolia has made significant progress in implementing trade facilitation measures in the past two years. However, implementation in the area of paperless trade and cross-border paperless trade remain well below the regional average (Figure I). This indicates that significant opportunities exist for Mongolia to reduce trade costs and improve its competitiveness by accelerating its efforts to facilitate and digitalize trade procedures.

Figure I. Cumulative implementation score of core groups of trade facilitation measures, 2019



Note: Maximum possible implementation score is 100.

Source: UN Global Survey on Digital and Sustainable Trade Facilitation, 2019; Untfusurvey.org

It is found that technical readiness on cross-border paperless trade in Mongolia varies greatly across agencies. This is partly due to absence of no fully functional institutional arrangement nor coordinated efforts to implement paperless trade systems. Whereas Mongolia's overall readiness level in terms of

ICT infrastructure is fair, ICT tools are not fully utilized due to lack of paperless trade solutions at agencies level. Most agencies have not yet conducted business process re-engineering nor adequate capacity building exercises to support paperless trade. For cross-border paperless trade, only MCGA, with the most advance paperless trade system, is currently capable of paperless trade and has initiated some cross-border data exchanges. None of the other primary stakeholders involved in the issuance of a permit, permission or certificate are ready for the paperless environment, let alone cross-border paperless trade.

On the legal aspect, there seems to be few obstacles to paperless trade – domestic or cross-border – originating in laws that would require paper to the extent that they forbid or limit recourse to electronic communications. On the contrary, a number of the gaps in its legal readiness tend to arise from provisions that are intended to favour electronic transactions but that do not work as well as they should, or that are incomplete in their conception or their execution, or that cannot readily extend their application from domestic to cross-border commerce. Mongolia has very few legal rules aimed specifically at cross-border paperless trade, and some exceptions include some recent arrangements with the Russian Federation, along with selected articles of some of the international conventions to which it is a party. Furthermore, the current legal environment protects intellectual property and the enforcement of international arbitration. Mongolia traditionally did not have legal provisions expressly on information security with respect to paperless trade, but its newer legal instruments on e-commerce contain a number of obligations on point.

Aside from the need for a coordinating mechanism on paperless trade, three technical areas require further improvements for advancing of cross-border paperless trade. Firstly, relevant regulatory agencies should be enabled with paperless trade systems and the creation of a Single Window system should be expedited. Secondly, Mongolia should have a strategic and wholistic plan for business continuity of ICT systems, business process re-engineering, data harmonization and standardization and capacity building programmes for all agencies. Thirdly, Mongolia should continue and further engage in regional, subregional and bilateral initiatives on cross-border paperless trade. Through partnerships, Mongolia should participate in joint inspection and sharing of results electronically, as well as conformance results.

Legal environments for paperless trade, domestic and cross-border, also requires some reforms and improvements. Most importantly, there are three areas of reforms that are critical for Mongolia. Firstly, Mongolia should modernize and simplify its statutes governing electronic documents and signatures. Second, Mongolia should provide a legal basis for establishing and operating a Single Window for cross-border trade and for creating a paperless trade environment. Third, Mongolia should accede to international treaties of direct relevance to paperless trade facilitation and to proactively consider how to incorporate relevant international legal standards, regulations and guidelines into its legal frameworks.

To facilitate reform, it is recommended that Mongolia should accede to the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific as soon as possible. By participating in the Framework, Mongolia can more effectively plan and implement its trade digitalization strategy. The Framework Agreement will assist Mongolia to develop its national capacity, design a long-term plan and engage in pilot exchange of selected data and documents and to keep abreast of emerging legal standards and solutions in the area of cross-border paperless trade.

The readiness assessments together with the action plan featured in this report can serve as a foundation to elaborate more detailed activities at national and agency level in this area, with identifiable timeline and budget sources. It is hoped that the report will contribute to the Government of Mongolia's quest to accelerate progress towards cross-border paperless trade, including through its accession to the Framework Agreement.

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Abbreviations

ADB	Asian Development Bank
ASEAN	Association of Southeast Asian Nations
BRI	Belt and Road Initiative
CA	Certificate Authority
CAIS	Customs Automated Information System
CEPS	Customs External Portal System
CITA	Communications and Information Technology Authority
CITES	Convention on the International Trade in Endangered Species
CRM	Customer Relationship Management
EAEU	Eurasian Economic Union
ESCAP	Economic and Social Commission for Asia and the Pacific
ERP	Enterprise Resource Planning
GASI	General Administration of Specialized Inspection
GTI	Greater Tumen Initiative
IMS	Inspection Management Systems
IPOM	Intellectual Property Office of Mongolia
MASM	Mongolian Agency for Standardization and Metrology
MCGA	Mongolian Customs General Administration
MFA	Ministry of Foreign Affairs
MNCCI	Mongolian National Chamber of Commerce and Industry
NTTFC	National Trade and Transport Facilitation Committee
OGA	Other Government Agencies
PIA	Permit Issuing Agencies
PIU	Project Implementation Unit
PKI	Public Key Infrastructure
RIBS	Regional Improvement of Border Services
SDG	Sustainable Development Goals
SPS	Sanitary and Phytosanitary
SSO	Single Sign On
TFA	Trade Facilitation Agreement
UN/CEFACT	The United Nations Centre for Trade Facilitation and Electronic Business
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
UNECE	United Nations Economic Commission for Europe
UNNEXt	United Nations Network of Experts for Paperless Trade and Transport in Asia and the Pacific
VABA	Veterinary and Animal Breeding Agency
VSAT	Very Small Aperture Terminal
WCO	World Customs Organization
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

I. Introduction

This report provides an assessment of Mongolia's readiness for cross-border paperless trade, i.e., the conduct of international trade transactions on the basis of electronic data and documents – as opposed to paper-based data and documents. Benefits from the successful implementation of cross-border paperless trade are large, with the potential to cut transaction costs by 25% across Asia and the Pacific region, as well as to increase regulatory compliance, reduce illicit financial flows and facilitate engagement in the increasingly digital global economy.¹

The assessment was conducted by a team of international experts following readiness checklists developed by the ESCAP Interim Intergovernmental Steering Group on Cross-Border Paperless Trade Facilitation, of which Mongolia is a member.² The team visited Mongolia in November 2018 to conduct interviews with relevant government agencies

and private sector stakeholders.³ A national consultation on facilitating cross-border paperless trade was co-organized by Ministry of Foreign Affairs, Mongolia and ESCAP on 2 May 2019, where preliminary findings from the visits were further reviewed, consolidated and validated.⁴ Final findings and recommendations incorporating inputs and suggestions received during and following the consultation are presented in this report.⁵ Based on these findings and recommendations, an initial action plan towards cross-border paperless trade for Mongolia has been prepared and is also presented in this report.

It is hoped that the report will contribute to the Government of Mongolia's quest to accelerate progress towards cross-border paperless trade, including through its accession to the Framework Agreement on Facilitation of Cross-Border Paperless Trade in Asia and the Pacific. (See Box 1. for further details)

Box 1. The Framework Agreement on Facilitation of Cross-Border Paperless Trade in Asia and the Pacific

The Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific ("Framework Agreement") was adopted as a UN treaty, deposited with the Secretary General of the United Nations in New York in 2016. A large number of countries, including Mongolia, participated in the development and negotiation of the Agreement. It is designed as an inclusive and enabling platform that will benefit all participating economies regardless of where they stand in terms of trade facilitation or Single Window/paperless trade implementation. For more information, please see: http://bit.ly/ESCAP_FA

Preparation of the report was supported by ESCAP through a project entitled "Facilitating Cross-Border Paperless Trade along the Belt Road Initiative (BRI) Corridors for Regional Integration and Sustainable Development". The project intends to assist member States in the

Asia and Pacific region to become more integrated and better utilize trade as an engine of sustainable development. The project seeks to develop voluntary trade facilitation and paperless trade action plans to remove bottlenecks,

¹ ESCAP (2017). Digital Trade facilitation in Asia and the Pacific. Studies in Trade, Investment and Innovation, No. 87. Available from <https://www.unescap.org/publications/digital-trade-facilitation-asia-and-pacific-studies-trade-investment-and-innovation-87>

² Cross-border paperless trade: a technical readiness checklist. Available from https://www.unescap.org/sites/default/files/IISG_2019_4_English.pdf

Cross-border paperless trade: a legal readiness checklist. Available from https://www.unescap.org/sites/default/files/IISG_2019_3_English.pdf

³ The lists of stakeholders interviewed are in Annex I.

⁴ The list of participants in the consultation is in Annex II.

⁵ Consolidated responses to questions in the legal and technical checklists are in Annex III and IV.

promote cross-border electronic commerce and create seamless BRI trade corridors.

This report is structured as follows: The next section (II) provides a brief state of play of trade facilitation and paperless trade implementation in Mongolia, based on Mongolia's notifications under the WTO Trade Facilitation Agreement, the UN Global Survey on Digital and Sustainable Trade Facilitation 2019, and an analysis of the transit process in Mongolia conducted in parallel with the cross-border paperless trade readiness

assessments. In section III and IV, findings from the technical and legal readiness assessments for cross-border paperless trade are presented, respectively. Recommendations on both technical and legal aspects of cross-border paperless trade that have emerged from the assessments are discussed in section V, followed by the introduction of an initial action plan based on the recommendations in section VI. The report ends with a brief discussion of a way forward.

II. Trade facilitation and paperless trade implementation in Mongolia

This section briefly reviews the state of play of trade facilitation and paperless trade implementation based on secondary data sources, namely the WTO Trade Facilitation Agreement Database⁶ and the UN Global Survey on Digital and Sustainable Trade Facilitation⁷. The section also features a summary of an analysis of transit processes in Mongolia, highlighting the need for Mongolia to accelerate implementation of paperless trade.

Mongolia and WTO TFA implementation: a brief review of notifications

Mongolia has notified 23.5% of all measures included in the WTO Trade Facilitation Agreement under Category A, suggesting it has only implemented less than a quarter of WTO TFA measures – well below the ESCAP average of 65%. However, the country has provided definitive dates of implementation for all measures not yet implemented. Most of the measures notified by Mongolia under Category B have a definitive date of implementation of 31st December 2020 or earlier. Article 7.3 “Separation of release” and Article 10.9 “Temporary admission of goods and inward and outward processing”, also submitted under Category B have an implementation date of 31st December 2021. If Mongolia implements all category B measures as indicated, it would reach a 59.6% implementation rate.

Mongolia notified other measures (40.4%) in Category C, meaning that it requires capacity building and technical assistance (CB/TA) before it can fully implement them. The type of CB/TA required relates to development of legislative and regulatory framework, human resources and training, and institutional procedures. Most of the Category C measures are expected to be implemented by 2021. A few measures will be

implemented at later dates: Article 7.8 “Expedited shipments”, Article 8 “Border agency cooperation”, and Article 10.3 “Use of international standards” have various later implementation dates; and Article 10.4 “Single window” is to be implemented by 31st December 2025. Year 2025 should mark the full completion of the WTO TFA, if all implemented according to the plan.

Mongolia in the 2019 UN Global Survey on Digital and Sustainable Trade Facilitation

The most recent data from the UN Global Survey on Digital and Sustainable Trade Facilitation reveals that Mongolia has made significant progress in implementing trade facilitation measures in the past two years. According to the 2019 Survey, most progress has been made in implementing more efficient trade “formalities” (Figure 1). Mongolia has also achieved higher levels of transit facilitation than the regional average. However, with an overall implementation rate of core measures included in the Survey of only 46.2%, Mongolia remains well below the Asia-Pacific regional average (59.1%).⁸ It is also well below the level of implementation in East and North-East Asia (79.3%) (Figure 2). This indicates that significant opportunities exist for Mongolia to improve trade facilitation mechanisms.

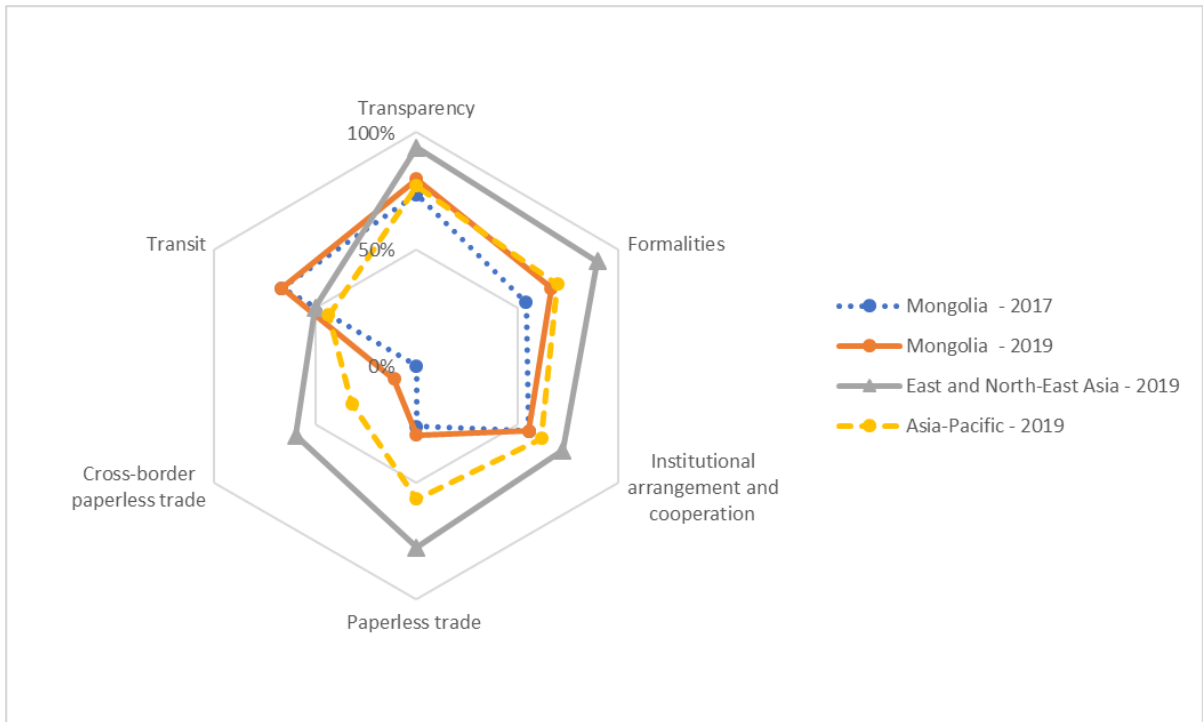
Among the five core groups of trade facilitation measures, Mongolia’s implementation of “Institutional arrangement and cooperation”, “transparency” and “formalities” are generally in line with Asia-Pacific regional average. “Paperless trade” and “cross-border paperless trade” remain challenges for Mongolia and the implementation of these two groups stand well below the regional average (Figure 1).

⁶ WTO Trade Facilitation Agreement Database, available from: <https://www.tfadatabase.org/>

⁷ UN Global Survey on Digital and Sustainable Trade Facilitation. Data forthcoming at: <https://unfcsurvey.org>

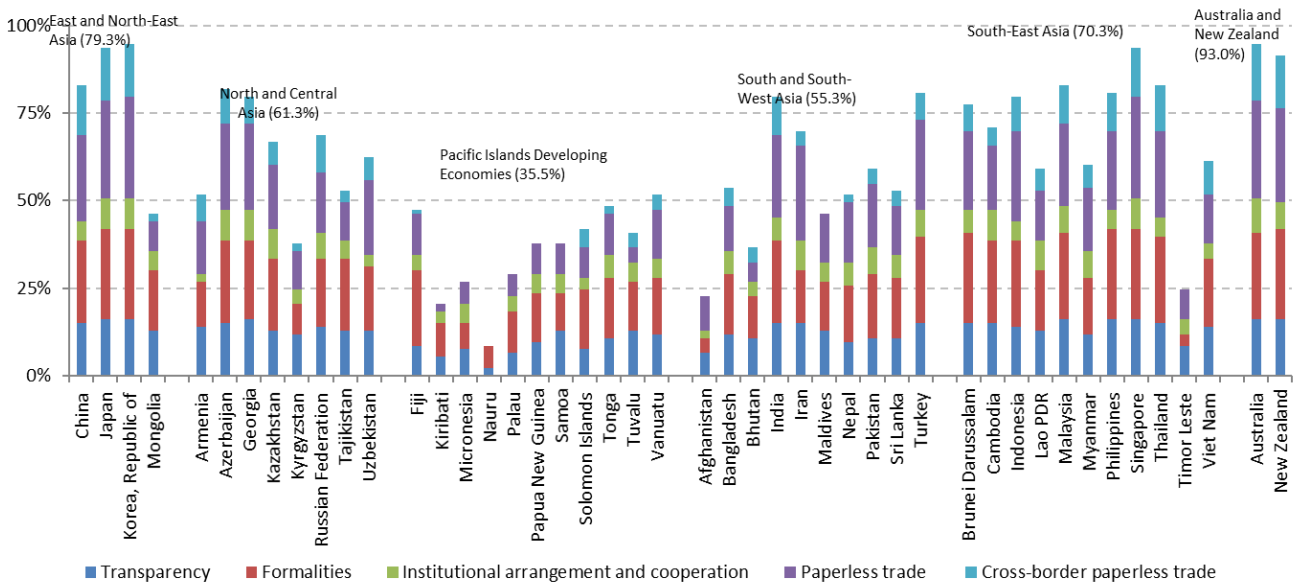
⁸ These findings are generally consistent with those of the World Bank 2019 Doing Business Report, in which Mongolia ranks 74th overall and 117th in the “Ease of Trading Across Borders” category. available from: <http://www.doingbusiness.org/content/dam/doingBusiness/country/m/mongolia/MNG.pdf>

Figure 1. Mongolia implementation of trade facilitation measures 2017 and 2019



Source: UN Global Survey on Digital and Sustainable Trade Facilitation, 2019.

Figure 2. Overall implementation of trade facilitation measures in 46 Asia-Pacific countries, 2019

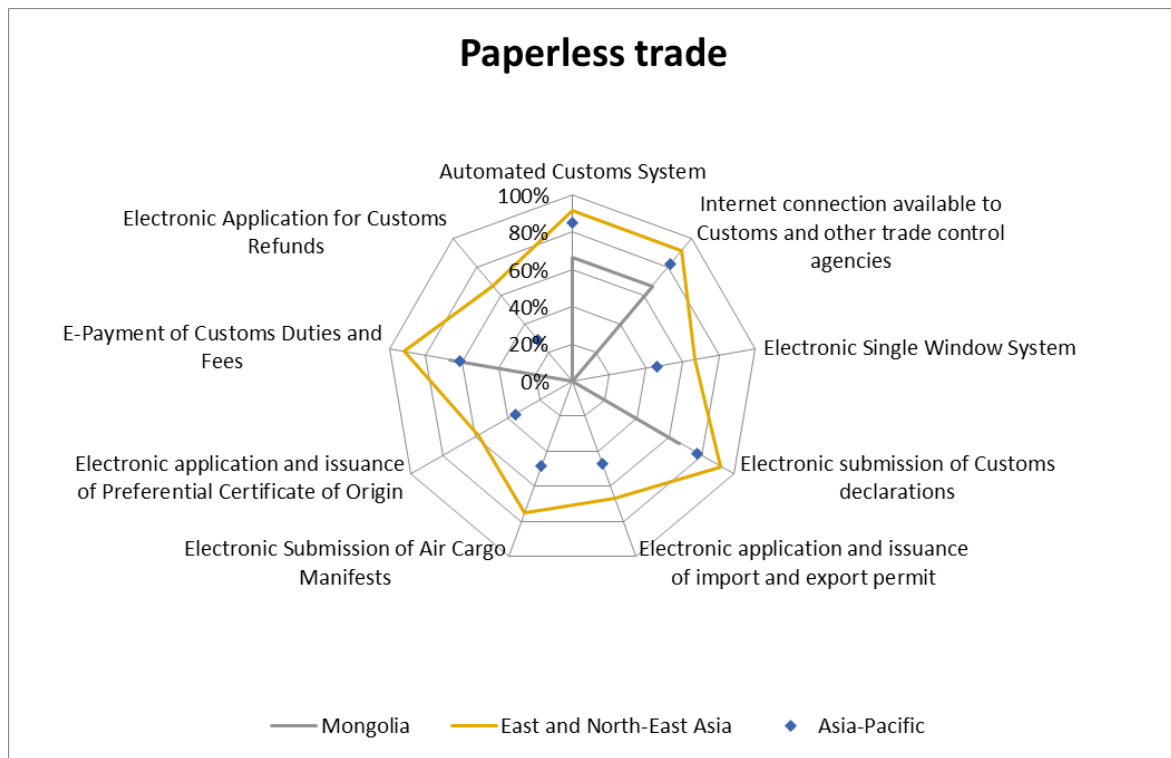


Source: UN Global Survey on Digital and Sustainable Trade Facilitation, 2019.

In “paperless trade”, Mongolia has introduced measures for *automated customs system, internet connection available to customs and other trade control agencies, electronic submission of customs declarations, and e-payment of customs duties and fees* (Figure 3). However, application of *customs refunds, a similar procedure to duties and fees payment, can only be made with paper documents. Electronic single window, a measure explicitly stipulated in the WTO Trade Facilitation*

Agreement (TFA),⁹ has not yet been established by Mongolia even on a pilot basis. Other measures such as *electronic application and issuance of import and export permit, electronic submission of air cargo manifests, and electronic application of issuance of preferential certificate of origin, have also not been implemented in Mongolia.*

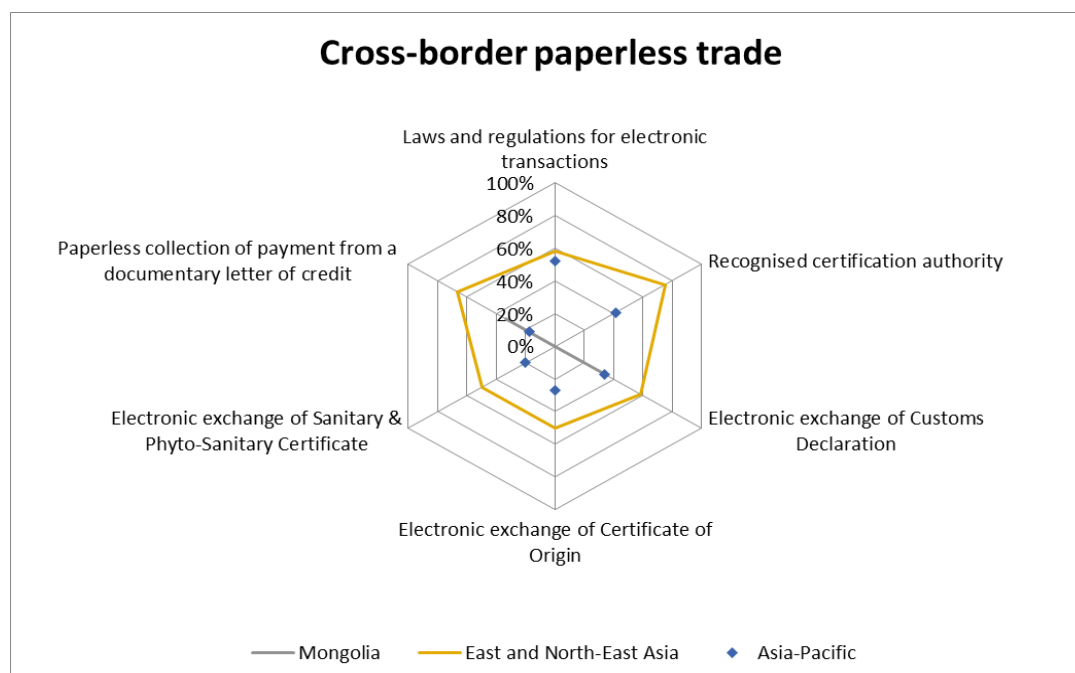
Figure 3. Mongolia implementation of “paperless trade” measures, 2019.



Source: UN Global Survey on Digital and Sustainable Trade Facilitation, 2019.

⁹ Article 10.4 of the WTO TFA calls for Member States “to endeavor to establish or maintain a single window, which enables traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single-entry point to the participating authorities or agencies”.

Figure 4. Mongolia implementation of cross-border paperless trade, 2019.



Source: UN Global Survey on Digital and Sustainable Trade Facilitation, 2019.

Mongolia's implementation of "cross-border paperless trade" measures remains very limited. Mongolia has implemented *electronic exchange of customs declarations*, and *paperless collection of payment from a documentary letter of credit* only on a pilot basis. Establishment of relevant regulations and recognized certification authority will provide legal and institutional foundation for invigorating cross-border paperless trade and ensure future actual exchange of specific trade-related data and documents across borders in order to achieve a fully integrated paperless transformation. However, measures of *law and regulations for electronic transactions*, and *recognized certification authority*, the basic building blocks towards enabling the exchange and legal recognition of trade-related data and documents, have not been implemented (figure 4).

Digital trade facilitation offers great opportunities to reduce trade costs and increase trade volumes. If Mongolia implements trade facilitation measures featured in the WTO Trade Facilitation Agreement together with cross-border paperless trade measures, it could achieve trade cost reductions of 30%, instead of only about 10% if it aims at basic compliance with the TFA.¹⁰ This would amount to additional trade transaction cost savings in excess of USD 133 million per year. Through paperless trade and seamless electronic exchange of trade data and documents, Mongolia can enhance its competitiveness and improve the effectiveness of its participation in global value chains.

¹⁰ ESCAP (2017). Digital Trade facilitation in Asia and the Pacific. Studies in Trade, Investment and Innovation, No. 87. Available from <https://www.unescap.org/publications/digital-trade-facilitation-asia-and-pacific-studies-trade-investment-and-innovation-87>. See also ADB(2017) "Trade Facilitation and Better Connectivity for an Inclusive Asia and Pacific", available from <https://www.adb.org/publications/trade-facilitation-connectivity-inclusive-asia-pacific>

Insights from a business process analysis of Mongolia transit process

As a way to more fully understand the trade facilitation situation in Mongolia, a business process analysis (BPA)¹¹ of the transit process was conducted between November 2018 and March 2019, in parallel to the legal and technical readiness assessments for cross-border paperless trade. The BPA analysis focused on (1) Export of wood products from Russian Federation to China, transiting through Mongolia and (2) Export of clothing products from China to Russian Federation, transiting through Mongolia.

The conduct of BPA in Mongolia involved a detailed review of current business processes in order to identify the bottlenecks which will be referred to streamline trade processes. The review covered the three procedural areas of the supply chain (i.e., Buy, Ship, Pay). It also involved the analysis of current laws and customs regulations, including customs clearance and the delivery of export and import of the selected goods; the analysis of data and information obtained from interviews with the stakeholders of the supply chain, including concerned government officials, producers, exporters, importers, transport companies and customs brokers; as well as the analysis of trade statistics and international business development information sourced online as well as during various studies conducted on Mongolian trade.

The BPA implementation identified eight core processes and ten actors (or process participants) for each of the two export processes examined. It was found that the transit processes for wood products coming from Russian Federation to China were in fact very similar with the transit processes for clothing apparels from China to Russian Federation.

Common process participants for the two export processes included the importer, the exporter, freight forwarder, the state inspection or investigation agencies (Mongolia's State Specialized Inspection Agency and the General Agency for Specialized Investigation), the state public health agency, customs laboratory (Mongolia's Customs Central Laboratory), and the depositary bank. The Russian and the Mongolian customs services (the Federal Customs Service of Russia and the Mongolia Customs General Administration, respectively) are additionally involved in the transit of wood products from Russian Federation to China. Meanwhile, the Chinese customs agency and Mongolia's border protection agency (China Customs and Mongolia's General Authority for Border Protection, respectively) are additionally involved in the clothing apparel transit from China to Russian Federation. All these actors would have to cooperate closely in order for the transit process to become fully paperless.

Total process time for the transit of wood products from the Russian Federation to China via Mongolia is between 2 and 3.5 days (figure 5). On the other hand, the total process time to transit clothing apparel from China to Russian Federation via Mongolia takes between 2.5 to 5.5 days (figure 6). These transit process time estimates include time taken to complete procedures for transit declaration and the clearance processes within Mongolia, as well as the actual cargo movement as the shipment enters and leaves Mongolian jurisdiction. The time measure does not include the actual selling and signing of contracts for the goods nor the payment of goods as these are taking place outside Mongolia between China and the Russian Federation stakeholders.

¹¹ The BPA methodology utilized is from UNNExT / ESCAP / UNECE Guide on Simplifying Trade Procedures. Available from: <https://unnex.t.unescap.org/content/business-process-analysis-simplify-trade-procedures-case-studies>

Figure 5. Time-procedure chart for transit of wood products from Russian Federation to China via Mongolia

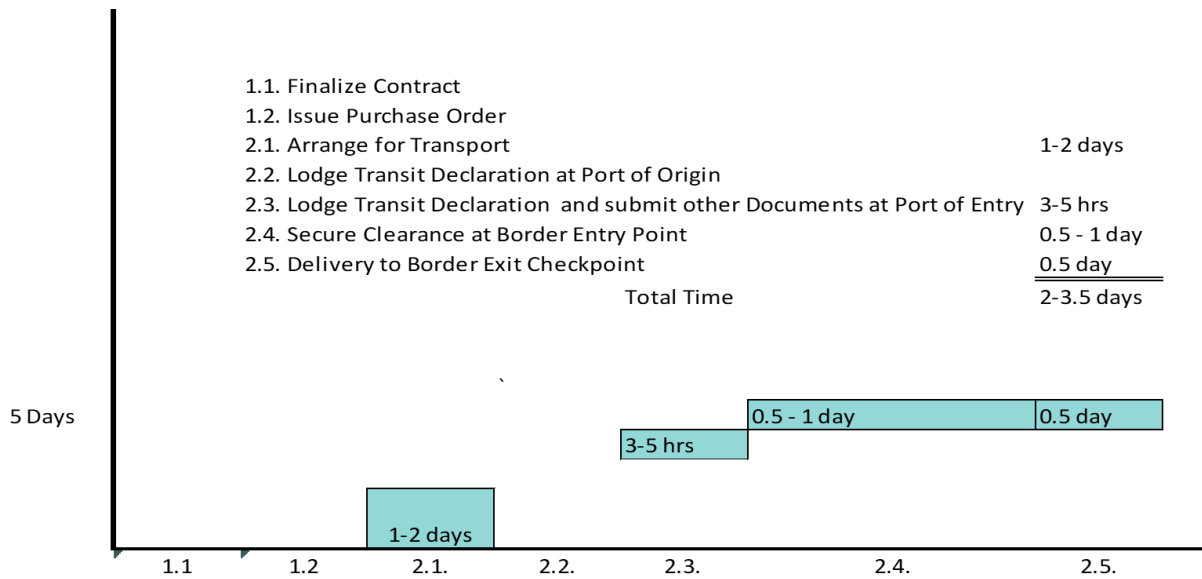
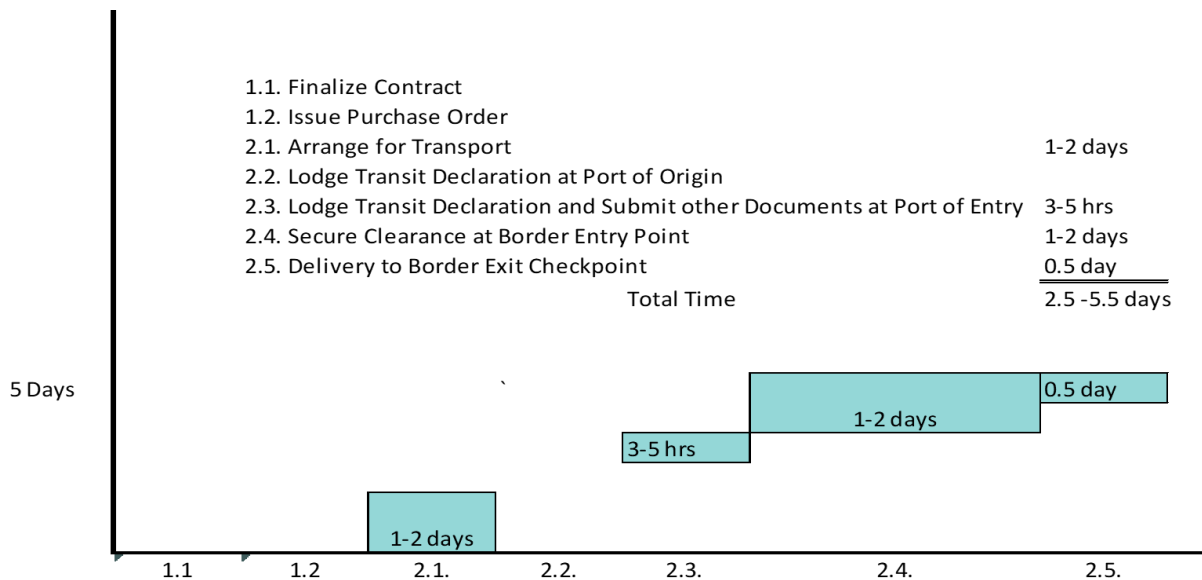


Figure 6. Time-procedure chart for transit of clothing apparels from China to Russian Federation



The paper-based nature of trade facilitation within Mongolia makes the whole transit procedures inefficient and prolonged. While Mongolia currently has some capabilities to electronically exchange customs clearance information with the Russian Federation, it is still

largely limited and is not available to stakeholders from both public and private sectors. On the other hand, cross-border exchange of information between Mongolia and China is still totally paper-based.

In both instances, voluminous sets of trade-related documents to facilitate the transit through Mongolia are required to be manually submitted. In addition, multiple sets of these documents need to be prepared and submitted to different agencies, such as the state inspection agencies, customs, and other border control point agencies. A main reason behind this is that there is no facility sharing information electronically among the regulatory agencies.

Several recommendations emerged from the BPA studies, a few of which are highlighted here. First, Mongolia should accelerate the development of a web-based integrated Single Window environment. Implementing an integrated Single Window system will enable trade-related agencies to share information and data (thus avoiding the need to produce voluminous documents and also making information needed for facilitation readily available), as well as handle large volume of transactions that require permits or clearances. On the part of the traders, the single window environment will also assist them in fully complying with regulatory requirements as well as reduce transaction time.

In addition, enabling the electronic exchange of trade-related information (i.e., permits/licenses, manifest and transit declaration as well as all other trade documents required) along the Trans-Mongolian Corridor can further facilitate a more efficient transit procedure. When information is exchanged electronically, approval of transit at the first border can be done prior to the arrival of the cargo, which would make international trade transactions more efficient and transparent while improving regulatory compliance. A starting point is for the three involved countries (Russian Federation, Mongolia and China) to harmonize trade and transit data using common international standards. Harmonization and standardization will then enable exchange and mutual recognition of trade-related data and documents in electronic form among the three countries. Mongolia may prioritize accession to the Framework Agreement on Facilitation of Cross-Border Paperless Trade in Asia and the Pacific, as participation in the treaty may greatly facilitate implementation of several of these recommendations.

III. Technical readiness for cross-border paperless trade: key findings

Key findings on Mongolia's technical readiness for cross-border paperless trade are summarized below. The findings are presented following the structure of the Technical Readiness Checklist adopted by the Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation, at its 5th Meeting in March 2019.¹² The completed checklist, which contains further details and elaborations, is available in Annex III.

The assessment reveals that the level of technical readiness in Mongolia for cross-border paperless trade varies greatly across agencies. Mongolia's overall readiness level in terms of ICT infrastructure is fair, and willingness of stakeholders to move into paperless trade environment is high. However, only MCGA is currently capable of paperless trade and has initiated some cross-border data exchanges. None of the other primary stakeholders involved in the issuance of a permit, permission or certificate are ready for the paperless environment, let alone cross-border paperless trade.

It is also noted that capacity building needs on cross-border paperless trade are high. Consideration should be given to joining the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific, which could facilitate improving overall paperless trade environment.

A. Paperless trade system at the national level

Institutional and governance bodies

Currently, there is no fully functional institutional arrangement nor coordinated efforts to implement paperless trade system in Mongolia. The National Trade and Transport Facilitation Committee (NTTFC) could undertake the role of implementing paperless trade systems.

However, NTTFC was established by a Ministry-level Act, which limits its ability to coordinate with other ministries. In addition, its primary focus is currently limited to implementation of WTO Trade Facilitation Agreement (TFA).

There are some existing paperless trade initiatives but there is no single government agency in charge to engage all partners. There is a plan to establish a coordinated paperless system and introduce a single window system. However, the lead agency has not yet been identified. Also, it is noted that the new Government elected in 2016 as yet to present a clear plan or direction regarding the implementation of paperless trade. Therefore, progress has slowed down in recent years.

Level of automation

There are some electronic systems in place which could subsequently support cross-border paperless trade system. However, the level of automation varies a lot across different agencies. The most advanced systems are the Customs Automated Information System (CAIS) and Customs External Portal System (CEPS) by Mongolian Customs General Administration (MCGA). Electronic Customs (eCustoms) is supported by e-banking for duty payments; single sign on (SSO) e-signature services; and Public Key Infrastructure (PKI).

On the other hand, other electronic systems, such as Electronic Port (ePort), Electronic Permit (ePermit) and Electronic Certificate (eCertificate) systems have not been fully implemented. The nearest to a eCertificate system would be the Mongolian National Chamber of Commerce and Industry (MNCCI) which allows electronic application for Certificate of Origin. However, the physical certificate is still required for border-crossing purposes. General Administration of Specialized Inspection (GASI), which accounts for almost 80% of import and export documentary

¹² Cross-border paperless trade: a technical readiness checklist. Available from: https://www.unescap.org/sites/default/files/IISG_2019_4_English.pdf

compliance, currently has not automated their business processes at all.

Still, there are future plans to move forward towards paperless trade systems. GASI will be implementing their Inspection Management System (IMS), with e-applications, e-scheduling, e-approvals and risk management system, with a targeted deadline of 2021. It was already identified that the current manual system is impeding government's efforts to upgrade its border inspections.¹³ Other Government Agencies (OGAs) are still entirely paper-based.

A Single Window System does not exist in Mongolia. However, the next version of CAIS and CEPS, which is supported by the ADB-funded project called Regional Improvement of Border Services (RIBS), is expected to introduce the preliminary single window component, estimated to be ready by 2020, and further to be expanded among several agencies by 2022.

Information and communication technology (ICT) infrastructure

Currently, relevant stakeholders are using their own premises and resources for their ICT infrastructure with limited capacities. Even though existing ICT tools are equipped for interoperability amongst stakeholders, due to the lack of paperless trade solutions at agencies level, these ICT tools are not fully utilized. For example, the current CAIS system is capable of receiving approvals, permissions and permits from OGAs and Permit Issuing Agencies (PIAs) but because none of the OGAs/PIAs are e-enabled, this functionality is not utilized.

Mongolia has a number of plans to enhance the ICT infrastructure. Firstly, The National Data Center is planned to be established in Ulaanbaatar by Communications and Information Technology Authority (CITA) with its disaster recovery site in Darkhan, sometime in 2019. This will mitigate risk for all existing and future (cross-border) paperless trade applications, inclusive of the future National Single Window, in the event of any natural or technical disasters. Secondly, the modernization efforts under RIBS will further enhance the e-

Customs system to be a "Preliminary Single Window". This is envisioned that the new system will enhance interoperability features between MCGA's CAIS and the OGAs/PIAs paperless trade system. Third, "KHUR", the e-government portal, would provide all necessary infrastructure for inter-agency data sharing and exchange.

Security

Mongolia has some security measures in place to manage electronic data in a secured manner. The security policy for paperless trade is controlled by Mongolia's National Intelligence Agency, managed and operated by CITA through KHUR. It involves the usage of e-signatures, single sign on measures and public key infrastructures (PKI) to ensure security of access and data integrity. The current policy is adequate to meet the national requirements for KHUR.

MCGA is currently using KHUR's e-signatures, single sign on measures and PKI to secure the accessibility to the CAIS/CEPS and to ensure data integrity. It was reported that once RIBS have completed the preliminary single window design, MCGA will work together with CITA to enhance the security policy.

Business process re-engineering

There are very few agencies in Mongolia who have conducted re-engineering and streamlining of business processes to support paperless trade. For MCGA, they conducted Business Process Re-engineering (BPR) during the implementation of e-Customs. For GASI, only the Risk Management team has some limited experience. However, they will be undergoing their own business process re-engineering in their development path for GASI's Inspection Management Systems (IMS), this is expected to be completed by 2021. Other agencies have not conducted any BPR.

Data harmonization and standardization

As for data harmonization and standardization, only MCGA has undergone such process. MCGA's data model is in accordance to the WCO Version 2 and is currently being upgraded to Version 3.7. Still, it is also planned that GASI will

¹³ ADB (2013). Modernizing Sanitary and Phytosanitary Measures to Facilitate Trade in Agricultural and Food Products—Report on the Development of an SPS Plan for CAREC Countries. Available from: <https://www.carecprogram.org/?publication=modernizing-sanitary-and-phytosanitary-measures-to-facilitate-trade-in-agricultural-and-food-products-report-on-the-development-of-an-sps-plan-for-carec-countries>

be undergoing its own data modelling in their development path for GASI's IMS.

Capacity building

Previously, several capacity building programmes and workshops were conducted by NTTFC and MNCCI. However, these concentrated on national level trade facilitation and were heavily limited to Customs process, giving a very limited coverage on cross-border aspects. Also, many stakeholders from both public sector and private sector have commented that they have been no continuity of such programmes since the change of government in 2016.

Others

Computer literacy and change management

Private sector stakeholders from the trading community have adequate and high computer literacy due to their organizations having automated systems for their business activities. However, such systems are not up to the level of customer relationship management (CRM) or enterprise resource planning (ERP) systems due to budget constraints. It was also noted that the trading community welcomes positive changes arising from the implementation of a paperless trade environment. However, there are some concerns regarding duplication of efforts for both paper and electronic documents for some clearances or transactions during the transition period. The trading community needs to be informed of progress in order to plan effectively their business processes.

Budget

At this point of time, budget sources for paperless trade are concentrated from around a few international donor organizations e.g. ADB and World Bank. Also, these financial assistances were concentrated to MCGA and only recently to GASI. It is commented that there is no concerted effort from NTTFC or other entity to seek budget plans. Compounded by the non-existence of a single window committee, all financial assistance from external parties are utilized by the respective recipient for their own projects.

B. National status towards cross-border data exchange

There are only very limited cross-border paperless trade measures implemented in Mongolia, with a few being some preliminary implementation of pilot projects with partner countries. As discussed earlier, results from the *United Nations Global Survey on Digital and Sustainable Trade Facilitation 2019* pointed out that cross-border paperless trade measures are the least implemented when compared with other trade facilitation measures, it is also lower than the average level of the Asia-Pacific region.¹⁴

Electronic systems

There are few cross-border data exchange initiatives of Mongolia with some partner countries. Firstly, through the MCGA's CAIS and CEP systems, since 2017, exchange of export information and X-Ray results started between Mongolia and the Russian Federation (of their customs). Also, manifest information exchange is being tested between China and Mongolia (between customs). Secondly, MCGA is engaged with partner countries under the Greater Tumen Initiative (GTI) for inter-connectivity between the single window system of the respective countries. However, difficulties arise because cross-border data exchange initiatives require agreements between authorities of all involved parties. For example, even though MNCCI is e-enabled for issuance of electronic certificate of origin, there are no initiatives planned to enable cross border mutual recognition of the electronic information.

Single Window system

There are some plans to establish a single window in Mongolia which can support cross-border data exchange. Primarily, the planned upgrade of CAIS/CEPS is designed for cross-border data exchange, but currently it only serves as a tool of exchange for custom-related information. Additionally, GASI, with its new IMS, intends to have cross-border data exchange on sanitary and phytosanitary export/import information with their trading partners respective authorities, through single window system. Also, GASI intends to exchange mutual recognition information pertaining to laboratory certification

¹⁴ UN Global Survey on Trade Facilitation and Paperless Trade. Available from: <https://untfsurvey.org/>

for goods imported into Mongolia and vice versa for goods exported to China and the Russian Federation. There has been no indication of similar initiatives or plans by the other OGA/PIAs.

Business process re-engineering

Re-engineering and streamlining of business processes of MCGA led to automation and simplification, and therefore has enabled MCGA to engage in initiatives and pilot projects supporting cross-border data exchange. These include exchange of export information and X-Ray results with the Russian Federation; exchange of manifest information; exchange with China customs; and inter-connectivity between the single window system between GTI countries.

Data harmonization and standardization

Data harmonization and standardization has been conducted but only in MCGA. This is based on the WCO guidelines and there is a plan to be migrating from WCO Data Model 2 to 3.7. Under the RIBS projects, the upgrade will be designed in accordance with United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) Single Window Recommendation.

International transit

Currently, there are no paperless procedures implemented for international transit in Mongolia, and transit documents in physical form are subject to be checked at inbound and outbound border crossing points.

Awareness programme

Building capacity through awareness programmes on cross-border data exchange in Mongolia has been conducted in very limited coverage and restricted to one agency, namely MCGA. As stated before (see Section A. 7. Capacity building), several awareness programmes and workshops were previously conducted by NTTFC and MNCCI but these

concentrated only on national level trade facilitation. Only MCGA has undergone some capacity building and training on cross-border data exchange. Only recently, in March 2018, a preliminary workshop was conducted by GASI on cross-border data exchange of SPS related information.

As for the capacity in business process analysis, data harmonization and simplification, and system development, only MCGA would have the experience and capacity from the implementation of e-Customs. In addition, GASI and VABA possesses limited and basic capacity for the development of certain internal systems.

Other matters

There are certain documents and related processes for cross-border data exchange that Mongolia has implemented and/or is exploring for implementation. The documents are as below:

1. Advance Manifest (MCGA): paper-based, digitalized and uploaded into MCGA systems.
2. Phytosanitary Certificates (GASI): currently 0% paperless.
3. Sanitary Certificates (GASI): currently 0% paperless.
4. Certificate of Origin (MNCCI / MCGA): applications – 100% paperless but need to be printed out on paper for importing country's authorities.
5. National Standards and Quality Certificates (MASM): currently Export Information and X-Ray Results for trade between Mongolia and Russian Federation is 100% paperless; rest is paper-based.

Further progress on cross-border exchange of these documents and enabling paperless system would greatly enhance the efficiencies of the procedures.

IV. Legal readiness for cross-border paperless trade: key findings

Key findings on Mongolia's legal readiness for cross-border paperless trade are summarized below. The findings are presented following the structure of the Legal Readiness Checklist adopted by the Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation, at its 5th Meeting.¹⁵ The completed checklist, which contains further details and elaborations, is available in Annex IV.

It may be noted that Mongolia has very few legal rules aimed specifically at cross-border paperless trade. The exceptions described here include some recent arrangements with the Russian Federation, along with selected articles of some of the international conventions to which it is a party. Recent decrees and resolutions tend to include references to cross-border dealings as well as domestic concerns, but without the kind of detail that might make them implementable.¹⁶ As a result, Mongolia's legal readiness for cross-border paperless trade needs to be evaluated largely from its domestic readiness for electronic commerce in general. Its domestic law - and the commercial and regulatory practices it supports - will affect how accommodating it is in its current international trading obligations to a transition to paperless procedures; and how ready it is to follow global or regional best practices on e-

communications that will help harmonize its legal regime with that of its trading partners.

Mongolia has been active in pursuit of electronic activities since the early years of the century. It seems fair to say that few obstacles to paperless trade - domestic or cross-border - originate in laws that presume paper to the extent that they forbid or limit recourse to electronic communications. On the contrary, a number of the gaps in its legal readiness tend to arise from provisions that are intended to favour electronic transactions but that do not work as well as they should, or that are incomplete in their conception or their execution, or that cannot readily extend their application from domestic to cross-border commerce.

A. Electronic transactions and signatures law

Electronic transactions

A legal regime favourable to (cross-border) electronic transactions with internationally recognized criteria, such as technology neutrality and functional equivalence, will assist facilitation of cross-border paperless trade for reasons explained in Box 2.

¹⁵ Cross-border paperless trade: a legal readiness checklist. Available from: https://www.unescap.org/sites/default/files/IISG_2019_3_English.pdf

¹⁶ Many Mongolian laws and decrees can be found online: <https://www.legalinfo.mn/law/?cat=27>

Box 2. Legal regime favourable to cross-border electronic transactions

A legal regime that supports cross-border electronic transactions could help Mongolia in a number of ways:

First, in a legal regime generally favourable to electronic transactions, businesses, consumers and governments will all become familiar with the characteristics of e-communications, both the risks and the advantages. As a result, getting all parties to take similar approaches to cross-border transactions, and the supporting approvals and verifications, will be less of a challenge.

Second, potential trading partners, or current trading partners considering whether to dispense with paper in dealing with Mongolia, will find it easier to decide positively if the legal regime they find in the country is familiar and principled. Thus cross-border paperless trade will be facilitated.

Third, the national internal economy will benefit in the same way as cross-border trade is expected to benefit as it goes paperless.

Fourth, it will be more economical to institute a legal regime to support international trade if it has a lot in common with the domestic regime. One does not have to create a special system for the cross-border relations.

Electronic communications

Mongolia has very few specific rules for specific kinds of document. The general rules apply (at least in principle) across the board – subject to the occasional regulation and to the occasional treaty. Otherwise, an electronic document can (again, in principle) be used freely in cross-border trade under Mongolian law.

Mongolia's law is based on codes, notably the Civil Code, which allows some oral contracts but requires that contracts in writing must be signed. The law was changed to make room for electronic transactions by a suite of statutes enacted – or proposed to be enacted - in or about 2004, including a law on electronic transactions and a law on information technology.¹⁷

The Law on Electronic Signatures dates from 2011, with more recent amendments.¹⁸ It appears that a contract that would have needed a signed writing must have some kind of

electronic signature – but not necessarily a digital signature - if it is to be done electronically. State bodies, however, must use digital signatures in order to sign electronically (A digital signature is an electronic signature created using special cryptography and permitting reliable verification of its source and of the integrity of the signed document). There are no other specific rules in the Code or other legislation about the form or content of an electronic document, as further described in Box 2. There are thus no direct legal barriers to using them in cross-border trade. The willingness of businesses to rely on a simple electronic signature, even if permitted in principle by the legislation, remains to be demonstrated (See Annex V).

It is worth noting that the approach taken in Mongolia and by the UNCITRAL Model Law on Electronic Commerce of 1996¹⁹ is to handle the electronic versions of documents as an additional consideration, rather than going back to re-

¹⁷ 2004 Electronic Transactions Act available from: <http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan042217.pdf> A government slide presentation from 2004 suggests the adoption at that time of a suite of legislation, including this Electronic Transactions Law, a basic law on information technology, one on electronic commerce and one on electronic government. However, there is no trace of these statutes in active form. Another document suggested that this legislative package was postponed until 2008-2010. <https://slideplayer.com/slide/7651224/>, notably https://images.slideplayer.com/25/7651224/slides/slide_3.jpg. They may never have been enacted.

¹⁸ Available from: (as amended to 2018): <https://www.legalinfo.mn/law/details/574?lawid=574>. A different translation has been published by Communications Regulatory Authority: <http://www.crc.gov.mn/en/k/2lq/1q>.

¹⁹ UNCITRAL Model Law on Electronic Commerce. Available from: http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce/1996Model.html

examine the foundations of their law. Thus, Mongolia has enacted article 42(super1) of the

Civil Code and added a provision to the indicia of a concluded transaction in article 43.

Box 3. Treatment of electronic documents, messages and signatures in Mongolian law

Some authorities distinguish between an electronic document – one that needs human review to have effect, such as a word-processed or PDF document – and an electronic message – one that can be read by a computer and be given effect to directly by it, such as an XML document or a web order form. Electronic commerce includes information in both forms. However, nothing in the Mongolian laws or regulations suggests that this distinction is being made by implication or by express usage.

Mongolian law appears to separate the notions of an electronic document from those for an electronic signature. There is a good precedent for this. The UNCITRAL Model Law on Electronic Commerce of 1996 provides that where the law requires information to be in writing, that requirement is satisfied if the information in electronic form is “accessible so as to be usable for subsequent reference”. This implies a focus on “memory” – one can verify one’s recollection subsequently – and on the integrity of the information over time, i.e. it has not changed. Mongolian law seems to rely on the digital signature to ensure electronic documents’ originality and integrity, without a separate legislative provision requiring these characteristics.

Identity management and trust services

In Mongolia, the Law on Electronic Signatures provides the basis for identity management and trust services, with definitions on electronic and digital signatures and specifications for cases and conditions to use them. For digital signatures, it appears that the cryptographic key pair can be created by the signatory itself, but it is often issued by an agency known in Mongolian law as a license holder. There are detailed regulations about how to issue a certificate and ensure it is accurate and up to date.²⁰

It is worth considering whether there is room for an electronic signature less secure and less complex than an electronic digital signature that would validate some electronic documents and transactions. Public key infrastructure (PKI) certificates are used mostly for official purposes but there is little private sector usage. The Law on Electronic Signatures on its face authorizes simpler e-signatures; it is not clear how much they are used. (See Annex V for further discussion).

Electronic evidence

The general Mongolian law of evidence does not seem to deal whether the decision-maker to be able to deal directly with information created in electronic form or not. There is a conflict of opinion on whether electronic evidence is admissible in Mongolia. The better view seems to be that it is not, or at least that the special characteristics of electronic documents that make prudence advisable are not widely appreciated.

Some assistance may be derived from the statutory provisions we have seen earlier that make electronic and digital signatures the equivalent of a handwritten or regular signature. To the extent that signed documents are more readily admissible in evidence, electronically signed documents will benefit from their statutory status.

The Mongolian Criminal Procedure Code might support a “certified” version of an electronic document for the same purposes. If audio and video recordings can qualify (as they can), electronic documents might well do so too.

²⁰ Communications Regulatory Commission, Procedures for Public Key Infrastructure for Mongolia’s Digital Signature, Regulation 2014-45, available from: <http://www.crc.gov.mn/k/BG>.

B. Paperless trade and Single Window systems

The Single Window system/ paperless trade system

Mongolia currently does not have a Single Window in operation for cross-border purposes. However, within the framework of the Border Services Improvement Project, a Single Window system will be set up among several organizations by 2022, with a preliminary or partial system – among some agencies – to be set up by 2020. There are no specific legal arrangements or coordination for consolidation of all government ministries and agencies, although the government is working on a draft privacy law that will affect the transfer of personal data among them. In the meantime, individual agencies have developed mechanisms for electronic communications with other agencies and stakeholders.

For Customs, most of the documents involved in customs clearances, notably those that need to go to other agencies than the Customs authority itself, are still provided on paper, but the Customs authority has been developing electronic communications with brokers and others. It has signed a cooperation agreement with the General Inspection Agency (GASI). Also, some information about Customs clearance is shared electronically with other government systems, notably the tax administration. Moreover, a new or revised Customs Law is being drafted, enabling all documents for Customs to be paperless, although optional. Payments can be run through the banks to avoid having to bring paper proof of payment to release goods from Customs warehouses once duty has been paid. Some traders can qualify for direct access to the Customs Automated Information System (CAIS), which in turn gives the right to use the Customs Electronic Processing System (CEPS). It is expected that once the technology is in place, whatever gaps that need to be filled for the legal authority will be taken care of readily.²¹

In short, while Mongolia understands the benefits of a Single Window system and has created some electronic systems on agencies level, it has

not yet completely done so for inter-agencies nor for cross-border communications.

Information security

Mongolia traditionally did not have legal provisions expressly on information security with respect to paperless trade, but its newer legal instruments on e-commerce contain a number of obligations on point. Mongolia does have laws against fraud, notably the Criminal Code. The Code's provisions apply to all media, so data integrity would have to be maintained in e-trade matters, domestic or international. A new law on data security is part of the forthcoming legislative package on electronic government.

There is a policy tension between ensuring that Customs and other regulatory authorities have enough information to properly assess the proposed import or export of goods on one hand, and the legitimate desire of business to protect its secrets on the other.

Thus, government agencies are allowed to share data among themselves, through a Single Window system or otherwise, but there need to be rules in place to ensure that confidential commercial information is not used or published except for purposes for which it was disclosed to government in the first place. This kind of rule can be phrased in media neutral terms, i.e. it can refer to information without differentiating between data on paper and electronic data. Ensuring in this way that legal protection is available to the cross-border trading partners in commonly accepted terms and regardless of the medium of trade is an element of legal readiness for cross-border paperless trade.

C. Cross-border aspects

Mongolia's readiness in law for cross-border paperless trade depends to a large extent on how its network of international obligations support such trade or can be adapted to support it, and how closely it follows international precedents in making laws applicable to trade and the trading environment. A note on the implementation of international treaties: many laws contain a provision stating that in case of conflict between

²¹ Interview with Customs officials, November 28, 2018.

the national legislation and an international treaty, the latter is applied. Since the 1992 Constitution, international agreements are self-executing – they obtain force of law as soon as they come into force internationally.²²

Existing bilateral or regional agreements

Mongolia has pursued some initiatives for bilateral arrangements with partner countries for cross-border paperless trade. Mongolian Customs shares an electronic shipping manifest with Russian Customs. A Memorandum of Understanding was signed between the two countries. Statistical exchanges will be possible by electronic means in a couple of years. Mongolia also has bilateral agreements with Russian Federation on preliminary e-notifications to Customs.

A similar arrangement as to manifests is being negotiated with China. Within the framework of the implementation of joint inspection and controlling system with Chinese customs, Mongolian customs started to use a joint e-manifest at the designated border port with China from the beginning of December 2018 as a test, with a plan to expand the number of ports.

International standards/guidelines

Mongolia is also party to a number of international treaties governing aspects of trade, many of which are very open to electronic documents and communications these days. Few require the use of electronic documents, but an increasing number authorize them. The principal relevant international treaties that Mongolia is party to are:

- World Trade Organization Trade Facilitation Agreement²³.
- Revised Kyoto Convention on the Harmonization and Simplification of Customs Practices²⁴.
- WTO Sanitary and Phytosanitary Agreement – National Notification Authorities can now use the SPS Notification Submission System (SPS NSS) to fill out and submit SPS notifications.²⁵
- Convention on the Contract for the Shipping of Goods by Road (CMR Convention)²⁶.
- Convention on the International Shipping of Goods under Cover of TIR Carnets²⁷.
- Convention on the International Trade in Endangered Species (CITES)²⁸.

A number of other international legal standards, regulations or guidelines that could support paperless trade should be considered for incorporation into Mongolia's legal framework. The most crucial and relevant ones for paperless trade are as below:

- UNCITRAL Model Law on Electronic Commerce (1996).
- UN Convention on the Use of Electronic Communications in International Contracts (2005).
- Guidelines from the UN Centre for Trade Facilitation and Electronic Business of the United Nations Economic and Social Commission for Europe (UN/CEFACT).

²² Odgerel Tseven & Ganbold Battsetseg, "UPDATE: The Mongolian Legal System and Laws: a Brief Overview", available from: http://www.nyulawglobal.org/globalex/Mongolia1.html#_International_law, section 4.6.

²³ The WTO Trade Facilitation Agreement is described here: https://www.wto.org/english/docs_e/legal_e/tfa-nov14_e.htm#fntext-16. A fact sheet is here: https://www.wto.org/english/tratop_e/tradfa_e/tfa_factsheet2017_e.pdf.

²⁴ The Revised Kyoto Convention is described here: <http://tfig.unece.org/contents/revised-kyoto-convention.htm>. A guide to its provisions is available from: <https://www.wcoesarocb.org/wp-content/uploads/2018/07/1.-WCO-Revised-Kyoto-Convention.pdf>

²⁵ Available from: https://www.wto.org/english/tratop_e/sps_e/sps_e.htm

²⁶ This Convention is available from: https://treaties.un.org/doc/Treaties/1961/07/19610702%2001-56%20AM/Ch_XI_B_11.pdf. A description of the CMR document is here: <https://www.nibusinessinfo.co.uk/content/cmr-note-key-road-transport-document>

²⁷ The TIR Convention is available from: https://en.wikipedia.org/wiki/TIR_Convention

²⁸ Available from: <https://cites.org/eng/disc/what.php> for a description and <https://cites.org/eng/disc/text.php> for the text.

- UNNEXT Legal Guide for Single Windows and Paperless Trade.²⁹

The importance and implications of these international standards and guidelines are further discussed in Annex VI.

A key question in this context is the legal recognition in one country of electronic documents in another. Recognition involves attributing legal status of some kind to electronic messages exchanged across borders. At this stage, mutual recognition of electronic documents is an ambition rather than a reality in much of the world, and certainly in Mongolia. While Mongolia is a party to many of the international instruments on harmonizing trade practice standards, those to which it is a party often contain little detail about how those standards may be met electronically.

Mongolia's laws on electronic signatures says expressly that if standards in an international treaty to which Mongolia is a party contradict the

rules set out in the statute, the treaty's provisions prevail.³⁰ Treaties are self-executing in Mongolia; ratifying them gives them force of law in the country. However, deferring to an international standard does not necessarily mean giving an international document legal effect in Mongolia. Normally more detail is needed for that purpose than the treaty itself will contain. Implementing measures need to be agreed on and put in place – which, as noted, is a difficult process everywhere, not just for Mongolia.

D. Other considerations

Liability issues

The Civil Code of Mongolia, and notably article 497, is the main source of rules of liability in the country.³¹ The general rule is the same as in most countries: the person who causes harm by fault must compensate the person harmed. Functions of civil liability is described in Box 4.

²⁹ UNNEXT Legal Guide for Single Windows and Paperless Trade. Available from: <https://unnex.unescap.org/tools>

³⁰ Law on Electronic Signatures, article 2: "If an international treaty to which Mongolia is a party is inconsistent with this law, then the provisions of the international treaty shall prevail."

³¹ Civil Code of Mongolia, 2002, Part IV Chapter 52, available from: <http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/45607/83813/F1625063101/MNG45607.pdf>

Box 4. Functions of civil liability

Civil liability has two functions of providing compensation for those who have been harmed by others' faults (of commission or of omission) and providing an incentive, through the risk of having to pay such compensation, to avoid faulty conduct. It can play a role, therefore, in the design of paperless cross-border trade.

The questions are complicated for cross-border trade because many participants in the system are public bodies, either direct parts of government like customs services or bodies performing public functions, like inspection laboratories.

In principle, it may be thought that the state should be liable to some extent for its failings, at least to provide basic compensation. On the other hand, state actions often contain or respond to public policy challenges that do not have a single right answer against which the law can apply a standard of fault. Thus, the potential liability of state actors is often either nullified or limited by law. The effect of such limitations on the other participants in the activity needs to be taken into account in evaluating their implications.

It is also desirable that any special limitations of liability should be disclosed at the outset, before trading begins, so that potential traders (inside or outside the country) can evaluate their risks. Trading websites or government-sponsored facilities like Single Window operations are well suited for this kind of disclosure. Sometimes the limitations can be imposed by contract. However, binding third parties to any such limitations may not be doable in that manner and could require legislation, in which case, the existence of the legislation should be disclosed.

In cross-border trade, the picture is further complicated by the necessary participation of legal persons outside the country – exporters or importers, brokers, and state agencies in the country of origin or destination of the goods, and possibly in states of transit as well. Imposing liability on those persons can be difficult, even if the law is clear in theory. And if the risk of liability were too great, they might choose not to trade into the country at all.

Electronic commerce, including paperless trade, usually relies on communications through intermediaries – communications networks, relayers of data, and the like. These intermediaries can affect the success of a transaction or impair it. Nothing in the analysis suggests that Mongolia law is not capable of dealing with intermediary liability as well as any other impacts of technology. However, the law contains no specific provisions on this topic to date. The proper measure of damages can probably carry over from general principles of law. The case for special treatment for cross-border trade activities in general – paperless or otherwise - has not yet been made.

Dispute settlement considerations

Arbitration is particularly attractive in international disputes, so that parties from different countries do not have to trust the neutrality of the courts of either party. It is important to the acceptability of international commercial arbitration that awards arising from it be enforceable in the country of the losing party. Mongolia has acceded to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards,³² which provides for firm enforcement of such awards.³³

Mongolia has also recently implemented the UNCITRAL Model Law on International

³²Convention on the Recognition and Enforcement of Foreign Arbitral Awards:

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXII-1&chapter=22&clang=_en

³³ For Mongolia's accession: <http://www.newyorkconvention.org/countries>

Commercial Arbitration,³⁴ so the conduct of such arbitrations on its territory should now be conducted in ways that should satisfy international trading partners. It is a measure that will add confidence to cross-border trade and that is becoming widely recognized as working for online as well as in-person dispute resolution.

Intellectual property

Businesses trading into Mongolia will want to be confident that their intellectual property rights in the goods shipped will be preserved when they cross the border. Mongolia's laws are set up to provide this protection, though there is little that is specific to paperless trade in this system.

Mongolia protects intellectual property, notably copyright, patents and trademarks, in a way consistent with international practice. It is a member of the World Intellectual Property Organization (WIPO) and some of the principal treaties on the subject: the Berne Convention on copyright and the WIPO Copyright Treaty,³⁵ the Madrid Convention on Trade Marks,³⁶ the Patent Cooperation Treaty³⁷ and The Hague System for the International Registration of Industrial Designs.³⁸ There are at present in Mongolia no special provisions about the intellectual property content of the operators of a National Single Window, though there is no reason that the normal rules of intellectual property would not apply to that content.

Electronic payments

Electronic payments are in practice accepted in Mongolia, with some limitations. The CITA's

policy is to accept e-payments for all government electronic services. The Bank of Mongolia has developed a law (now enacted by Parliament) on electronic payments that came into force on January 1, 2019.³⁹

Customs payments can be made through banks. No paper receipt needs to be taken to Customs, and the goods can be released by electronic order. However, this system seems to apply neither to the general inspection agency, nor to cross-border payments. For many purposes, the banks still rely on paper documents to justify payments. Letters of credit transactions, an important element of cross-border trade, are still done entirely on paper.

In short, there is some capacity for e-payments, but it is not widely or evenly distributed. With the new law, e-payments may await changes in culture and technological capacity more than of legal regime.

Competition law

Nothing in the domestic array of Single Window services in Mongolia suggests that they are or can be used to lessen competition among suppliers of goods or services, or for the state to take unfair advantage of private business. So long as users can access the Single Window on an equal basis with others, competition considerations should not arise, with the considerations of its structure, as further described in Box 5.

³⁴ UNCITRAL Model Law on International Commercial Arbitration: https://uncitral.un.org/en/texts/arbitration/modellaw/commercial_arbitration/status

³⁵ Berne Convention for the Protection of Literary and Artistic Works, available from: <https://www.wipo.int/treaties/en/ip/berne/>

³⁶ Summary of the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement: https://www.wipo.int/treaties/en/registration/madrid/summary_madrid_marks.html

³⁷ World Intellectual Property Organization, available from: <https://www.wipo.int/pct/en/faqs/faqs.html#note1>

³⁸ Hague – The International Design System, available from: <https://www.wipo.int/hague/en>

³⁹ Law on National Payments System, May 31, 2017, available from: <file:///C:/Users/john/Documents/JDG%20professional/ESCAP%20project/Mongolia/laws%20and%20regulations%20-%20Mongolia/Law%20on%20National%20Payments%20System%202017.html>

Box 5. Competition law and National Single Window system

UN/CEFACT's Recommendation 35 on the legal issues arising on the establishment of a National Single Window system warns against violating competition law in the process. "Consideration should be given to the potential that Single Window operations may be structured so that concerns about antitrust and protectionism may result. These possibilities, though unlikely, can give rise to concerns by those who may utilize an international Single Window facility and discourage trade development and facilitation. Additionally, countries and economies should consider their obligations under international treaties and conventions related to competition law when establishing Single Window facilities."⁴⁰

The reference given for this point is the General Agreement on Tariffs and Trade, which has since been replaced by the World Trade Organization agreement, to which Mongolia is a party.

⁴⁰ Establishing a Legal Framework for International Trade Single Window, available from: http://www.unece.org/fileadmin/DAM/cefact/recommendations/rec35/Rec35_ECE_TRADE_401_EstablishingLegalFrameworkforSingleWindow_E.pdf , p. 16

V. Recommendations for moving towards cross-border paperless trade

Based on the findings from the technical and legal readiness of Mongolia for cross-border paperless trade in the sections III and IV of the report, a series of technical and legal recommendations for Mongolia to accelerate progress towards cross-border paperless trade are presented in this section.

A. Recommendations emerging from the technical readiness assessment

In order to improve its domestic paperless trade environment and its readiness to participate in cross-border paperless trade, Mongolia should gradually develop national Single Window and other paperless trade systems that are interoperable within and across borders. This would involve Mongolia developing its national technical capacity in this area, designing a long-term plan and engaging in pilot exchange of selected data and documents, all of which can be greatly facilitated if Mongolia accedes to the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific.⁴¹ Recommendations related to each area covered during the technical readiness assessment follow below.

Institutional and governance bodies

Recommendation 1: Mongolia should put in place a political commitment for (cross-border) paperless trade facilitation by joining the Framework Agreement on Facilitation of Cross-Border Paperless Trade in Asia and the Pacific as soon as possible. Among different ways to secure a political commitment, becoming a party to an intergovernmental agreement can establish political commitment at the highest level and help a country to take necessary actions for creating paperless trade environment - as exemplified in the case of the Association of Southeast Asian Nations (ASEAN) Single Window Agreement.

Recommendation 2: Mongolia should create a mechanism for coordinating stakeholders involved in (cross-border) paperless trade, including by designating a lead agency. To avoid duplication of efforts and ensure sustainability, it is recommended to take advantage of existing institutional mechanisms as much as possible, rather than creating a new body. Preference may therefore be given to using the National Trade and Transport Facilitation Committee (NTTFC) - which is tasked to support WTO TFA implementation-, or a relevant working group under it.

Level of automation

Recommendation 3: Mongolia should make relevant regulatory agencies ICT-enabled as soon as possible to empower them to participate in paperless trade. While the Customs (MCGA) is fully ICT-enabled, other government agencies involved in trade are still paper-based in processing their regulatory procedures. Though automation of Customs procedures greatly facilitate trade, businesses cannot optimize their operations, if they have to go through manual processes in completing other trade-related regulatory requirements.

Recommendation 4: Mongolia should expedite the creation of a Single Window environment by implementing a Single Window system. While it is valuable to have all trade-related regulatory

⁴¹ See Annex VII for a brief description of the Framework Agreement.

procedures automated, it would still be burdensome for businesses if they have to go through different channels in order to meet different regulatory requirements. Creating a single channel for businesses to meet all the regulatory requirements can greatly enhance their efficiency.

Information and communication technology (ICT) infrastructure

Recommendation 5: Mongolia should establish a strategic plan and guidelines on business continuity of ICT systems (including for paperless trade systems), such as disaster recovery plan, to ensure service continuity and sustainability of such systems. This is essential to ensure that paperless systems can safely substitute, rather than duplicate, paper-based systems.

Business process re-engineering

Recommendation 6: Mongolia should carry out business process re-engineering (BPR) in implementing or upgrading ICT systems of trade-related regulatory agencies. This way, business and operational procedures can be optimized, rather than just focusing on the simple automation of existing processes. BPR should best be conducted in conjunction with the development of the Single Window system and by all agencies expected to connect to it.

Data harmonization and standardization

Recommendation 7: Mongolia should carry out data harmonization in implementing or upgrading ICT systems of trade-related regulatory agencies, creating a national data model based on available international standards – such as the WCO Data Model. This would greatly facilitate interoperability between Mongolia's paperless trade systems as well the exchange of electronic data more easily with systems of other countries.

Capacity building

Recommendation 8: Mongolia should build awareness and capacity on (cross-border) paperless trade of all parties involved in import, export and transit processes. Mongolia may seek support from the United Nations and other international development agencies, in a coordinated manner to avoid duplicated support in planning and delivering capacity building activities. This may be facilitated through the Framework Agreement (Article 14 Capacity Building) once it enters into force.

Other matters

Recommendation 9: Mongolia should develop a strategic plan to secure budget for implementing ICT systems of trade-related regulatory agencies, including assessing requirements of those agencies, coordinating potential source of budget and outreaching to international development agencies.

National status towards cross-border data exchange

Recommendation 10: In implementing or upgrading automation systems of relevant regulatory agencies in connection with Recommendation 3, Mongolia should make those systems enabled for both domestic and cross-border paperless trade at the same time in order to quickly improve their readiness and competitiveness without duplication of efforts.

Recommendation 11: Mongolia should actively participate in regional, subregional and bilateral initiatives on cross-border paperless trade. This would ensure Mongolia is aware - and participate in the development of – emerging cross-border paperless trade processes developed under those

initiatives. Joining the Framework Agreement (Article 13 Pilot projects and sharing of lessons learned) would be an effective way to ensure Mongolia can engage in relevant cross-border paperless trade initiatives.

Recommendation 12: Mongolia should introduce paperless transit, including declaration and guarantee, in cooperation with neighbouring countries and by joining international transit regimes as relevant and needed. It may, in particular, propose a specific pilot project and a working group to be set up under the Framework Agreement to develop and test paperless transit solutions.

Recommendation 13: Mongolia should proactively participate in joint inspection and sharing of results electronically among its relevant regulatory agencies, as well as with trading partner countries. For sharing and mutual recognition of conformance results with trading partner countries, joining the Framework Agreement (Article 8 Cross-border mutual recognition of trade-related data and documents in electronic form) would help Mongolia to initiate and operationalize solutions with its trading partners in the region.

Recommendation 14: Mongolia should introduce Authorized Economic Operator (AEO) programme and conclude mutual recognition agreement of AEOs with its main trading partner countries. AEOs may be subjected to less paper-based requirements. Mutual recognition of AEOs may also provide a useful basis for furthering cross-border paperless trade.

B. Recommendations emerging from the legal readiness assessment

In order to improve its domestic legal environment for paperless trade and its legal readiness to participate in cross-border paperless trade, it is recommended that Mongolia gradually update its e-commerce legal framework, proactively join relevant international agreements, incorporate international standards into its legal framework, and follow international legal guidelines on Single Window and related paperless trade system development. Mongolia should also accede to the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific as soon as possible to keep abreast of emerging legal standards and solutions in this area. Recommendations related to key areas covered during the legal readiness assessment follow below.

Electronics transactions and signatures law

Recommendation 1: Mongolia should modernize and simplify its statutes governing electronic documents and signatures. Specifically, Mongolia should:

- (1) Consider revising the E-Signature Law to increase its technological neutrality, since more flexibility is needed for signatures especially in non-official contexts and more clarity is needed on the implications of secure signatures.
- (2) Consider enacting an e-commerce law to address how identification, authorization and authentication are carried out in an electronic environment.
- (3) Consider explicitly establishing requirements for functional equivalence between paper-based documents and electronic communications; or, in the alternative.
- (4) Consider making laws fully recognize electronic communications as directly meeting requirements for documents, writing, signature, etc.

In this process, it may pay attention to the work of UNCITRAL in this field, especially the Convention on the Use of Electronic Communications in International Contracts; the principles of the Convention can be used in domestic law as well. (See also Recommendation 7.)

Recommendation 2: Mongolia should establish a legal basis for the preservation of stored information in electronic form and rules for ensuring the integrity and security of this stored information in electronic form.

Recommendation 3: Mongolia should explicitly make electronic evidence appropriately admissible in judicial and administrative/regulatory proceedings, and also consider making the same rules apply to electronic evidence generated, stored or collected abroad.

Paperless trade and single window laws

Recommendation 4: Mongolia should provide a legal basis for establishing and operating a Single Window for cross-border trade and for creating a paperless trade environment. Such a legal basis can be provided by revision of existing laws or by enacting new laws. The essence of this set of laws is to authorize and frame the electronic exchange of information among all public-sector and private-sector participants in trade. See Recommendation 9 in this regard.

Recommendation 5: Mongolia should expedite the adoption of laws on information security, cybercrime and privacy, as well as laws and regulations establishing requirements of accuracy and integrity of data submitted and processed for paperless trade. It may be that existing laws of general application will serve these purposes, but that examination needs to be undertaken and any gaps filled.

Cross-border aspects

Recommendation 6: Mongolia should accede to the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific as soon as possible. The Framework Agreement will help Mongolia in arranging mutual recognition of electronic messages and information transmitted across borders, as the parties settle on the appropriate rules and standards for this purpose.

Recommendation 7: Mongolia should accede to the UNCITRAL Convention on the Use of Electronic Communications in International Contracts. By acceding to the Convention, Mongolia gets a shortcut to internationally recognized and sound electronic transaction laws applicable to domestic and international transactions. Being a party to this Convention will help Mongolia make the deals that paperless trade facilitation will then help execute. (The Russian Federation, one of Mongolia's principal trading partners, is already a party). The Convention also helps interpret other international conventions to which Mongolia is a party consistently with its principles.

Recommendation 8: Mongolia should study the many conventions to which it is a party and that allow paperless documentation, to ensure that its agencies and traders are aware of the opportunities they are given by these instruments. This process will yield more benefit than seeking out new conventions to join, with the exception of those already mentioned in Recommendations 6 and 7. These other conventions include:

- 1) Convention on the International Sale of Goods: An Advisory Council on this convention published the opinion as early as 2003 that it allowed electronic contracts including signatures. The Convention may prevail over domestic law for international sales, in or out of Mongolia, involving other contracting states.
- 2) Convention on the Harmonization on the Frontier Controls of Goods (along with the United Nations Layout Key): this convention has great potential to support mutual recognition of cross-border documents because of the standardization of formats.

- 3) Ground transportation conventions that provide for harmonized documentation, now often expressly with electronic alternatives: CMR Convention on road transport, TIR Convention on road transport, Istanbul Convention on transit carnets, Asian Rail Transport convention.

Recommendation 9: Mongolia should continue to be willing to make bilateral or regional agreements (such as those it has with the Russian Federation and China, or agreements arising from the Greater Tumen Initiative, for example) as well as those promoted by global bodies, as appear useful or appropriate. This can give it practice in supporting paperless communications for trade elsewhere.

Recommendation 10: Mongolia should proactively consider how to incorporate relevant international legal standards, regulations and guidelines into its legal frameworks. In doing so, it should take the opportunity to share the knowledge on the benefits of such standards throughout the public sector, so agencies across government recognize opportunities to go electronic (a special co-ordination effort may be useful for internal legal advisors so they give consistent informed advice on such questions). Some international legal standards/regulations/guidelines that Mongolia has not yet expressly incorporated, but could be beneficial include:

- 1) UN/CEFACT Recommendation 33 on the establishment of a Single Window.
- 2) UN/CEFACT Recommendation 35 on the legal status of a Single Window.
- 3) UN/CEFACT Recommendation 36 on interoperability of cross-border systems.
- 4) UNNExT Legal Guide for Single Windows and Paperless Trade.⁴²

Other considerations

Recommendation 11: Mongolia should clearly establish the criteria for liability of parties involved in cross-border paperless trade and for the liability of intermediaries in relation to the information and data passing through their systems. This may allow for some private contractual disclaimer of liability, subject to statutory or regulatory limits. The principle that harm is repaired by the person who caused it should be maintained, unless good reasons of public policy require an exception – in which case, the fact of the exception should be made clear as well. However, it may be necessary to study the kinds of responsibilities that can arise and the kinds of harm that can be done, and to build safeguards, before a full liability regime can be instituted.

Recommendation 12: Mongolia should clearly set out how choice of forum and choice of law issues relevant for paperless trade facilitation are determined in its laws.

Recommendation 13: Mongolia should consider establishing laws defining who owns the data in a cross-border paperless trade system and how the data can be used.

Recommendation 14: Mongolia should ensure that its laws allow electronic payments for all purposes and among all participants in international trade transactions. These laws may include appropriate security and authentication practices.

Recommendation 15: Mongolia should build awareness and capacity on legal issues of (cross-border) paperless trade of its stakeholders, especially those who are involved in handling legal aspects, including understanding the implications of joining international agreements.

⁴² UNNExT Legal Guide for Single Windows and Paperless Trade. Available from: <https://unnnext.unescap.org/tools>

VI. Mongolia action plan for cross-border paperless trade

This section features an initial national action plan, based on the “Individual action plan” template developed by the Working Groups of the Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation. The plan features Indicative actions that could be undertaken by Mongolia to implement the technical and legal recommendations presented in the previous section (V). The action plan includes priority level, timeline, capacity building needs and potential key agencies related to each indicative action, based on discussions held during the national consultation workshop on

facilitating cross-border paperless trade held on 2 May 2019 in Ulaanbaatar, Mongolia⁴³, as well as the knowledge acquired and the experience of the expert team. Indicative actions as well as other information included in this initial action plan may be further elaborated upon – e.g., activities may be further broken down into sub-activities and tasks; and type of capacity building needs may be specified – and incorporated into other relevant national development plans (e.g. national trade facilitation action plan, e-commerce development strategy, or e-government plan).

Part 1: Technical Aspect

Priority level: High, Medium, Low

Institutional and governance bodies				
Indicative action	Priority level	Timeline	Capacity building needs	Potential key agencies
1. Accede to the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific	High	Fall 2019	Yes	MFA, Customs, and NTFC
2. Create a mechanism for coordinating stakeholders involved in (cross-border) paperless trade	High	2019	Yes	NTFC (one of 3 WGs -SW WG or another WG)
2.1. Designating a lead agency	High	2019	-	MFA and Customs
Automation				
Indicative action	Priority level	Timeline	Capacity building needs	Potential Key agencies
3. Identify the ICT infrastructure that will be suitable to the implementation of electronic data exchange in paperless environment and enable the relevant government agencies				
3.1. GASI	High	2020 - 2021	Yes	GASI
3.2. MASM	High	2020	Yes	MASM and all the key agencies mentioned
3.3. CITA	High	By End of 2019	Yes	CITA, Customs, GASI, MASM
3.4. MNCCI (eC/O)	High	2020	Yes	MNCCI and Customs
3.5 Border Control Agency	High	2020	Yes	

⁴³ National Consultation on Facilitating Cross-border Paperless Trade: Mongolia, event website is available from: <https://www.unescap.org/events/national-consultation-facilitating-cross-border-paperless-trade-mongolia>

3.6. Railway authority of Mongolia	High	2021	Yes	Ministry of Road and Transport Development
4. Expedite the creation of a Single Window environment	High	2022	Yes	CITA, Customs, GASI and other relevant ministries and agencies
4.1. Identify all relevant ICT infrastructure that should be connected to create interoperability and make the Single Window easier to use	High	2021	Yes	CITA, Customs, GASI and other relevant ministries and agencies
ICT Infrastructure				
Indicative action	Priority level	Timeline	Capacity building needs	Potential Key agencies
5. Establish a sustainability plan and guidelines on business continuity of ICT systems	High	2021	Yes	CITA
Business process re-engineering				
Indicative action	Priority level	Timeline	Capacity building needs	Potential Key agencies
6. Carry out business process re-engineering (BPR) in implementing or upgrading ICT systems of trade-related regulatory agencies	Med.	Continuous	Yes	NTTFC
Data harmonization				
Indicative action	Priority level	Timeline	Capacity building needs	Potential Key agencies
7. Carry out data harmonization in implementing or upgrading ICT systems of trade-related regulatory agencies	Med.	Continuous	Yes	NTTFC
Awareness and capacity building				
Indicative action	Priority level	Timeline	Capacity building needs	Potential Key agencies
8. Build awareness and capacity on (cross-border) paperless trade of all parties involved in import, export and transit processes.	High	ASAP	Yes	NTTFC
8.1. Awareness raising				
8.2. Capacity building				
Other matters				
Indicative action	Priority level	Timeline	Capacity building needs	Potential Key agencies
9. Develop a strategic plan to secure budget for implementing ICT systems of trade-related regulatory agencies	High	2021	-	MOF and NTTFC
National status towards cross-border data exchange				

Indicative action	Priority level	Timeline	Capacity building needs	Potential Key agencies
10. Make automation systems of relevant regulatory agencies enabled for both domestic and cross-border paperless trade at the same time	High	Continuous	Yes	NTTFC and relevant agencies
11. Participate in regional, sub-regional and bi-lateral initiatives on cross-border paperless trade	High	Continuous	Yes	Same as above
12. Introduce a paperless transit, including for declaration and guarantee, in cooperation with neighbouring countries and by joining international transit regimes	High	2021	Yes (need to specify needs)	NTTFC, MRTD and Customs, MFA
13. Participate in joint inspection and sharing (recognition) of results electronically among its relevant regulatory agencies	High	2022	Yes	All relevant agencies
13.1. Participate in joint inspection and sharing (recognition) of results electronically with trading partner countries	High	2023	Yes	All relevant agencies and partner country agencies
14. Introduce Authorized Economic Operator (AEO) programme and conclude mutual recognition agreement with main trading partner countries	High	2022	Yes	MCGA and all the law enforcement agencies

Part 2: Legal Aspect

Priority level: High, Medium, Low

Electronic transactions				
Indicative action	Priority level	Timeline	Capacity building needs	Potential key agencies
1. Modernize and simplify its statutes governing electronic documents and signatures				
1.1. Review the Law on Electronic Signature for technology neutrality	Med.	2021	Yes	CITA and Ministry of Justice
1.2 Consider enacting an e-commerce law to incorporate provisions addressing how identification, verification, authorization, and authentication be carried out in an electronic environment	Med.	2023	Yes	CITA and Ministry of Justice
1.3. Explicitly establish requirements for functional equivalence of the paper-based documents and electronic documents	High	2021	Yes	CITA and Ministry of Justice
1.4. Make laws fully recognize electronic communications as directly meeting requirements for documents, writing, signature, etc.	Low			

2. Establish a legal basis for the preservation of stored information in electronic form, and guidelines for ensuring the integrity and security of this stored information in electronic form	High	2022	Yes	General authority for archive and Ministry of Justice
3. Explicitly make electronic evidence appropriately admissible in judicial and administrative/regulatory proceedings, and also consider making the same rules apply to electronic evidence generated, stored or collected abroad.	High	2024	Yes	CITA and Ministry of Justice and General authority for archive
Paperless trade and Single Window laws				
Indicative action	Priority level	Timeline	Capacity building needs	Potential Key agencies
4. Provide a legal basis (revision of existing laws or by enacting new laws) for establishing and operating a Single Window for cross-border trade and for creating a paperless trade environment	High	2021	Yes	MFA, Customs and other related authority
5. Expedite the adoption of laws on information security, cybercrime and privacy, as well as laws/regulations establishing requirements of accuracy and integrity of data submitted and processed for paperless trade	High	2022	No	CITA and National Intelligence Agency
Cross-border aspects				
Indicative action	Priority level	Timeline	Capacity building needs	Potential Key agencies
6. Accede to the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific as soon as possible	High	Fall of 2019	Yes	MFA, Customs, and NTFC
7. Accede to the UNCITRAL Convention on the Use of Electronic Communications in International Contracts	High	2021	Yes	CITA, Ministry of Justice and MFA
8. Study the many conventions to which it is a party and that allow paperless documentation, to ensure that its agencies and traders are aware of the opportunities they are given by these instruments				
8.1. Convention on the International Sale of Goods	High	2019	No	Customs and MFA
8.2. Convention on the Harmonization on the Frontier Controls of Goods (along with the United Nations Layout Key)	Med.	2019	No	Customs and MFA
8.3. Ground transportation conventions	Med.	2019	No	MRTD
8.3.1. CMR Convention on road transport	Med.	2019	No	MRTD

8.3.2. TIR Convention on road transport	Med.	2019	No	MRTD
8.3.3. Istanbul Convention on transit carnets	Med.	2019	No	MRTD
8.3.4. Asian Rail Transport convention	Med.	2019	No	MRTD
8.4. Others				
9. Continue to be willing to make bilateral or regional agreements as well as join those promoted by global bodies, as required	Med.	Continuous	Yes	related line ministries and agencies and MFA
10. Proactively consider how to incorporate relevant international legal standards/regulations/guidelines into its legal frameworks	High	Continuous	Yes	related line ministries and agencies
Other considerations				
Indicative action	Priority level	Timeline	Capacity building needs	Potential Key agencies
11. Clearly establish the criteria for liability of parties involved in cross-border paperless trade and for the liability of intermediaries in relation to the information and data passing through their systems	Med.	2024	Yes	Ministry of Justice
12. Clearly set out how choice of forum and choice of law issues relevant for paperless trade facilitation are determined in its laws	Med.	2024	No	Ministry of Justice and MFA
13. Establish laws defining who owns the data in a cross-border paperless trade system and how the data can be used	Med.	2024	Yes	Agencies involved
14. Ensure that its laws allow electronic payments for all purposes and among all participants in international trade transactions	Med.	2024	No	Agencies involved and Central bank
15. Build awareness and capacity on legal issues of (cross-border) paperless trade of its stakeholders, especially those who are involved in handling legal aspects	High	Continuous	Yes	Agencies involved
16. Build a national policy framework for the implementation of the Framework Agreement that will address the legal issues/barriers and is aligned to the relevant international instruments and standards	High		Yes	Agencies involved, to be spearheaded by NTTFC

VII. Conclusion and way forward

Mongolia has made significant progress in implementing trade facilitation and paperless trade. However, much more remains to be done to further enhance trade efficiency in Mongolia, in particular, by adopting digitalization of trade procedures. In this report, findings from technical and legal assessments of the readiness of Mongolia for cross-border paperless trade were presented, along with recommendations derived from these findings. An initial action plan was formulated based on the experts' recommendations and inputs gathered during the national consultations, which provides a useful basis for the preparation by Mongolia of an Individual action plan under the Framework Agreement on Facilitation of Cross-Border Paperless Trade in Asia and the Pacific.⁴⁴

The report highlighted that there were no technical or legal obstacles in Mongolia acceding to the Framework Agreement and that it should do so as soon as possible so it can start to more effectively plan and implement its trade

digitalization strategy. The readiness assessments together with the action plan featured in this report can serve as a foundation to elaborate more detailed activities at national and agency level in this area, with identifiable timeline and budget sources. Additional meetings and consultations among stakeholders may be useful to further refine and specify actions and their sequencing in order to achieve the long-term goal of cross-border paperless trade – and to identify specific pilot projects and capacity building and technical assistance needs.

Pending its accession to - and the entry into force of - the Framework Agreement, Mongolia may also continue to participate in the Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation to gather and exchange information on good practices that can help Mongolia further enhance its readiness for cross-border paperless trade.

⁴⁴ Under the Framework Agreement and the associated draft implementation roadmap, participating states would have to develop such individual action plans as part of implementing the Agreement, i.e., after the Agreement has entered into force and the Parties have agreed on a template as well as on a timeline for submission of the plans.

Annexes

Annex I. List of stakeholders interviewed

Organization	Name	Job Position
Agency on mineral, resources and petroleum authority	Mr. Gankhuyag	Senior officer for geology
	Mr. Lkhagvabaatar	Senior officer for mining
	Mr. Ulaankhuu	Senior officer for coal
Border protection agency	Mr. Myagmardorj	Director for border controlling department
	Mr. Tuvshintsengel	
	Unurjargal	
Communications and Information Technology Authority (CITA)	Ms. Anuujiin	Expert of E-government policy dev
	Mr. Badamsuren	Deputy director for policy & coordination department for IT
	Mr. Enkhbat	Director for system integration division
General Administration of Specialized Inspection (GASI)	Ms. Solongo	State specialist for plant quarantine inspection for export, import, border quarantine inspection department
	Oyuntsetseg	
	Mr. Ulambaatar	Senior inspector for quarantine & plant originated goods
Ichin cashmere LLC (cashmere export)	Ms. Tuul	CEO
IFFC LLC (FF, customs broker, shipping)	Ms. Tsogzolmaa	Export manager
Intellectual Property Office of Mongolia (IPOM)	Mr. Ganzorig	Director of the department for administration
	Ms. Gerelmaa	Officer for foreign relation department
Mongolian Agency for Standardization and Metrology (MASM)	Mr. Bold	Senior officer for Strategy, Policy Planning & Internal Audit Department
	Mrs. Chimegee	Senior officer for Products, Management & Certification Department
	Ms. Dash-Yanjmaa	Senior officer for Strategy, Policy Planning & Internal Audit Department
Mongolian Customs General Administration (MCGA)	Mr. Altankhuyag	IT specialist for IT division
	Ms. Ariunaa	Customs inspector for custom clearance department
	Mrs. Ariuntsetseg	Senior inspector for Legal affairs division
	Mr. Jadambaa	Senior specialist for IT division
	Ms. Lkhagvatsend	Officer for international cooperation division
	Mr. Munguntuya	Inspector for Legal affairs division
Ministry of Foreign Affairs (MFA)	Mrs. Battsetseg	Deputy director for department of foreign trade & economic cooperation
	Ms. Nergui	Officer for department of foreign trade & economic cooperation
	Ms. Tsetsegmaa	Third secretary for department of foreign trade & economic cooperation
Ministry of Environment	Mr. Jamiyankhuu	Inspector for Environmental & natural resources management dept
	Mrs. Oyungerel	Inspector for Plantation

Mongolian National Chamber of Commerce and Industry (MNCCI)	Mrs. Tsetsegmaa	Senior officer for Foreign trade & international cooperation department
MONEX LLC (FF, customs broker)	Mr. Chinzorig	Export manager
Mongolia Immigration agency	Mr. Dashdorj	General Director, honoured lawyer, professor
	Mr. Tulgatsoodol	Head of legal & Foreign relations division
Monlogistic worldwide LLC (FF, customs broker, shipping)	Mr. Telenged	Chairman of the board
Project Implementation Unit for Regional Improvement of Border Services	Mr. Batbayar	Project coordinator
	Ms. Eva Chan Chaw Peng	Head of international business of Dagang Net, Malaysia
	Mr. Munkh-Erdene	Deputy coordinator
	Ms. Unurtsetseg	Project manager
Taj group LLC (meat exporter)	Mr. Bayarmagnai	
	Mr. Davaadorj	Export manager
Trade and Development Bank of Mongolia	Mrs. Ariunzul	Senior officer for international and banking department
	Mrs. Munkhchimeg	Senior Banking Officer, Trade Finance Settlement Unit
Teso LLC (milk exporter)	Ms. Nomin	Director for industry & export
Tuushin LLC (FF, customs broker, shipping)	Mrs. Enhkriimaa	Director
	Ms. Oyunkhand	Manager for intermodal division
UBTZ	Mrs. Tseveendorj	Deputy director for freight & transport
Zetta trade LLC (rice importer)	Mr. Dolgorjav	CEO

Annex II. List of participants at the national consultation workshop

Organization	Name	Job Position
Communications and Information Technology Authority (CITA)	Mr. Enkhbat	Director for system integration division
Doing business in Asia	Ms. Enkhzul	CEO
General Administration of Specialized Inspection (GASI)	Mr. Ulambaatar	Senior inspector for quarantine & plant originated goods
GS1 Mongolia	Ms. Tsevelsaikhan	CEO
	Ms. Batchimeg	Senior officer
Mongolian Agency for Standardization and Metrology (MASM)	Ms. Dash-Yanjmaa	Senior officer for Strategy, Policy Planning & Internal Audit Department
	Ms. Enkhsetseg	Senior officer for Products, Management & Certification Department
	S. Nyamerdene	Head for Strategy, Policy Planning & Internal Audit Department
Mongolian Customs General Administration (MCGA)	Ms. Ariunaa	Inspector for custom clearance department
	Mr. D.Bayarsaikhan	Officer for international cooperation division
	Mr. J.Amarbayar	Senior inspector for Legal affairs division
	Ms. Lkhagvasuren	
	Mr. Munkhzul	Inspector for IT department
	Ms. Nomin-Erdene	
	Ms. O. Munkhzul	Inspector for Legal affairs division
Ministry of Foreign Affairs (MFA)	Mr. Enkhbold	Director for department of foreign trade & economic cooperation
	Ms. Nergui	Department of foreign trade & economic cooperation
	Ms. Tsetsegmaa	Third secretary for department of foreign trade & economic cooperation
	S. Zolzaya	Third secretary for department of international law and treaty
Mongolian National Chamber of Commerce and Industry (MNCCI)	Ms. Enkhjin	Officer for policy and research dept
	Mrs. Tsetsegmaa	Senior officer for Foreign trade & international cooperation department
Mongolia Immigration agency	Mr. Erdenetugs	Officer of legal & Foreign relations division
Mongolian maritime administration under the MRTD	Ms. Baigalmaa	
	Mr. Munkhbat	
Monlogistic worldwide LLC	Mr. Telenged	Chairman of the board
PIU for Regional Improvement of Border Services	Mr. Munkh-Erdene	Project manager
	Ms. Unurtsetseg	Project coordinator
Tuushin LLC	Ms. Oyunkhand	Manager for intermodal division

Annex III. Cross-border paperless trade: a technical readiness checklist: Mongolia

Scope and structure of the checklist

The Checklist is to assess technical gaps in implementing cross-border paperless trade systems. The Checklist takes into considerations of national issues such as implementation of electronic and paperless transactions at national level and Single Window system, pre-requisites for cross-border paperless trade data exchange.

The Checklist is structured in two sections as below:

Section A - Paperless trade system at the national level

This section focuses on technical issues related to implementation of electronic trade systems in paperless environment at the national level. Technical issues are grouped into the following categories.

1. Institutional and governance bodies
 - a. Strong political commitment
 - b. Coordination
 - c. Inter-agencies governance structure
2. Level of automation
 - a. Electronic systems
 - b. Single Window System
3. Information and communication technology (ICT) infrastructure
 - a. Network service availability
 - b. Common/single network (E-Systems)
 - c. Single Window System
 - d. Strategic plan for ICT infrastructure issues
 - e. Disaster recovery
 - f. Business continuity plan
4. Security
 - a. IT security policy
 - b. Security measures (E-Systems)
 - c. Authentication mechanism
 - d. Communication protocol
5. Business process re-engineering

- a. BPR For paperless trade
- b. Implementation of paperless trade transactions
- 6. Data harmonization and standardization
- 7. Capacity building
- 8. Other matters
 - a. Computer literacy
 - b. Budget constraints

Section B – National status towards cross-border data exchange

This section is aimed at assessing the status of a country or an organization to embark on cross-border paperless trade data exchange projects.

- 1. Electronic systems
- 2. Single Window System
- 3. Business process re-engineering
- 4. Data harmonization and standardization
- 5. International transit
- 6. Awareness program
- 7. Other matters
 - a. Authorized Economic Operator
 - b. Stakeholders and trade community
 - c. Government budget
 - d. Documents being considered for cross-border data exchange & prioritization
 - e. Further information

CONSOLIDATED RESPONSE TO TECHNICAL READINESS CHECKLIST

Section A: Paperless Trade System at the National Level

No.	Questions	Elaboration on status/issues/
1.	<p>Institutional and governance bodies for electronic data exchange in paperless environment:</p> <p><i>One of the critical success factors for implementation of paperless trade system is strong commitment from the Head of Government without which many projects of this magnitude tend to stall. When top management is committed to spearhead a project, issues of financial support and other resources could be addressed more readily. Coordination among participating parties (among Government agencies, between government and private sectors) is not an easy task but could be carried out more efficiently and effectively with the establishment of an institutional body equipped with a strong governance structure. The institutional set-up will provide a venue for relevant officials to come together to discuss on functionalities and other technical as well as legal matters. The governance structure which depicts the role and responsibilities of each unit/group as well as reporting mechanism will expedite the implementation of the paperless trade systems.</i></p>	
1.1	<p>Is there strong political commitment in your country to implement paperless trade systems to expedite international trade supply chain?</p> <p><i>Is there an official government instruction or decree? Has a Ministerial level official been appointed for this initiative?</i></p>	<p>Partially. The National Trade and Transport Facilitation Committee (NTTFC) was established in 2006 and chaired by the Minister of Transport (Ministry's Act 4/48.). In total, there are 22 members including Mongolian Customs General Administration (MCGA), Mongolian Agency for Standardization and Metrology (MASM), General Administration of Specialized Inspection (GASI), Ministry of Foreign Affairs (MFA) and Mongolian National Chamber of Commerce and Industry (MNCCI). However, since the new Government in 2016, there are uncertainties in plans and directions for paperless trade and activities has slowed down. Also, it is stated that NTTFC is primarily focusing on implementation of WTO Trade Facilitation Agreement (TFA).</p> <p>In the absence of directions, government agencies involved in establishing paperless trade environment have been conducting their plans and implementation in silos.</p>
1.2	<p>Does the paperless trade initiative encompass all the community partners and is it driven by the government at the top level?</p>	<p>Partially. The paperless trade initiatives involve mainly MCGA's implementation of Customs automated information system (CAIS) and Customs External Portal System (CEPS). These initiatives are driven by MCGA for customs services only involving customs brokers and freight forwarders.</p> <p>Currently, most OGA/PIA are without any paperless applications or systems. The only exception is MNCCI which allow e-applications for certificate of origin but still produces paper-based certificates as required by the authorities of destination country.</p>

No.	Questions	Elaboration on status/issues/
1.3	<p><i>Which government agency is in charge?</i></p> <p>Is there an inter-agencies governance structure established to oversee paperless trade systems facilitated by the government?</p> <p>If yes, please provide a diagrammatic representation of the structure and indicate the Lead Agency?</p> <p><i>This structure may include the private sector stakeholders or community players.</i></p>	<p>There is no identified lead agency for paperless trade initiative. At this point of time, MCGA is implementing only customs services and states that it is merely a support agency but not the lead agency. However, all other stakeholders assume that MCGA is the lead agency.</p> <p>Partially. NTTFC is the inter-agencies entity related to paperless trade systems, but with some limitations in terms of scope (see Section A.1.1).</p>
2.	<p>Level of Automation</p> <p><i>It is not feasible for an organization/agency to consider implementing paperless trade system without the capability of processing electronic document/information/data, let alone cross-border data exchange subsequently.</i></p>	
2.1	<p>(a) Has your country implemented any of the following systems?</p> <p>i. Electronic Customs (eCustoms)*</p> <ul style="list-style-type: none"> • Does it have the capability to receive, process and issue document electronically? 	<p>Yes. MCGA has implemented e-Customs in the form of CAIS and CEPS which allows exporters, importers, customs brokers and freight forwarders to submit customs declarations and receive approvals electronically. With risk management and information and transactions processing, the MCGA could improve the efficiency of customs inspectors and to create a centralized repository of information collected for easier retrieval.⁴⁵ However, supporting documents in paper format are still required for sighting at the border crossing points together with the goods. Full customs paperless environment is for export of minerals goods. This system is also capable of receiving manifest information.</p>

⁴⁵ Independent Evaluation ADB (2016). Performance Evaluation Report. Mongolia: Customs Modernization Project. Available from <https://www.adb.org/sites/default/files/evaluation-document/188956/files/pper-mon-custoMs.pdf>

No.	Questions	Elaboration on status/issues/
	<p>In accordance to TFA 10.6, any party involved in foreign trade can utilize the e-Customs without the need of customs brokers. Currently, 14% of imports are without the usage of customs brokers whereas for exports, 70%-80% of export declarations are declared without the usage of customs brokers.</p> <ul style="list-style-type: none"> • Is it integrated with Electronic Payment (ePayment)? • Does it have the capability to authenticate users electronically? • Does it ensure data/document security? • What is the percentage of trade covered under this system? • Are community partners connected to it electronically? <p><i>ii.</i> Electronic Port (ePort)**</p> <ul style="list-style-type: none"> • Does it have the capability to receive, process and issue document electronically? • Is it integrated with Electronic Payment (ePayment)? • Does it have the capability to authenticate users electronically? • Does it ensure data/document security? 	<p>Yes. Duty payments are via e-Banking which is connected to 8 banks.</p> <p>Yes. The authentication of users is via the single sign on (SSO) e-signature services managed by KHUR, the e-government portal.</p> <p>Yes. The Public Key Infrastructure (PKI) for security is controlled by the root certificate authority which owned and managed by CITA.</p> <p>Partially. The CAIS and CEPS covers 100% of the trade's customs declarations only. OGA/PIA are not included in this system and is currently still paper-based.</p> <p>Partially. Community partners (customs brokers and freight forwarders) are connected via CEPS (Customs External Portal Systems), but not all.</p> <p>No. Not implemented.</p>

No.	Questions	Elaboration on status/issues/
	<ul style="list-style-type: none"> • What is the percentage of trade covered under these systems? • Are community partners connected to it electronically? <p>iii. Electronic License (eLicense), Electronic Permit (ePermit), Electronic Certificate (eCertificate), etc.</p> <ul style="list-style-type: none"> • Does it have the capability to receive, process and issue document electronically? • Is it integrated with Electronic Payment (ePayment)? • Does it have the capability to authenticate users electronically? • Does it ensure data/document security? • What is the percentage of trade covered under these systems? <p>iv. Systems of cross-border trade other than above specified:</p>	<p>Partially. Currently, only for e-Certificate of Origin by MNCCI. E-Application is available but physical certificate is printed due to requirements by importing countries. In the future, GASI will be implementing their Inspection Management System, with targeted deadline of 2021. Preliminary design includes e-applications, e-scheduling, e-approvals and risk management system. It will allow data sharing/exchange with MCGA's CEPS, particularly on approvals.</p> <p>No. But preliminary design for future systems includes digitalized support documents. Approvals will be issued electronically.</p> <p>No. But preliminary design for future systems includes electronic funds transfer on top of existing payment methods through cash / credit cards.</p> <p>No. But in the future most likely will be using the KHUR e-signature / SSO services for authentication of users.</p> <p>No. But in the future, most likely will be using the PKI system by KHUR. 4 companies are also authorized to issue e-Certificates</p> <p>It is estimated to cover 100% of certificate of origin.</p> <p>There is another initiative called "KHUR", an e-Government service, managed and operated by CITA. It is not a cross border trade system. Its mandate is in the form of Resolution/Decree 159 which indicates that all Government agencies must participate in KHUR. Resolution/Decree 259</p>

No.	Questions	Elaboration on status/issues/
	<p>has identified 500 services to be implemented as e-service under KHUR. Services implemented are (1) citizen-based services and it provides (2) inter-agency data exchange/sharing functions and (3) banks can also exchange data using KHUR CITA also provides authentication and issuance of user identity/e-signature for SSO. E-Signature was approved by the Parliament in 2011. KHUR also provides inter-agency data sharing and exchange. These KHUR solutions are also vital components to support paperless trade and cross border paperless trade. Accessibility can also via fingerprints whereas mobile ID identification will be implemented by 2021.</p> <ul style="list-style-type: none"> • Does it have the capability to receive, process and issue document electronically? • Is it integrated with Electronic Payment (ePayment)? • Does it have the capability to authenticate users electronically? • Does it ensure data/document security? • What is the percentage of trade covered under these systems? <p>(b) What is your country's targeted timeline to cover all trade transactions through these systems towards paperless environment?</p> <p>* And other services that facilitates Customs declarations in an electronic format. ** Including air, sea, road rail and inland ports</p>	<p>Partially. Physical documents may need to be presented upon request.</p> <p>Yes. Connected to all banks</p> <p>Yes. Authentication via SSO and e-Signature.</p> <p>Yes. Public Key Infrastructure (PKI) is controlled by the root Certificate Authority (CA) managed by CITA.</p> <p>N/A. Trade Services are supposed to be under KHUR but no trade-related stakeholder is connected to KHUR.</p> <p>The preliminary Single Window implementation is targeted for 2020, for MCGA. This may encounter delays as GASI's system is only estimated to be completed by 2021. Timelines for other OGA/PIA not indicated.</p> <p>None. Only MCGA's CAIS/CEPS</p>

No.	Questions	Elaboration on status/issues/
2.2	<p>Has a Single Window System been implemented in your country to expedite cargo movement/clearance and to facilitate international trade supply chain?</p> <p>If yes,</p> <ul style="list-style-type: none"> (i) how does it receive data electronically i.e. what kind of user interface and communication channel (internet-based network or dedicated/secured private network) is used? (ii) does it support paperless environment? (iii) How many agencies are connected to the Single Window? Please list them. (iv) Who operates this system? <p>If no, does your country have a future plan and when is the targeted timeline to implement electronic transactions towards paperless environment?</p>	<p>No.</p> <p>The next version of CAIS and CEPS, which is implementation under the ADB-funded project, Regional Improvement of Border Services (RIBS) will see the introduction of a preliminary Single Window component, estimated to be ready by 2020. This may encounter delays as GASI's system is only estimated to be completed by 2021. Timelines for other OGA/PIA not indicated.</p>

3.	<p>Information and Communication Technology (ICT) Infrastructure for Paperless Trade</p> <p><i>A good information and communication technology (ICT) infrastructure is one of the essential elements for an efficient paperless trade system. The primary function of the network is to serve as a secure channel for information exchange between the participating parties. Unavailability of internet service could be one of the obstacles in full implementation of a trade facilitation system when the business process is incomplete due to missing parties in the network connectivity.</i></p> <p><i>There are various options of network such as Multi-Protocol Label Switching - Internet Protocol Virtual Private Network (MPLS-IPVPN), HTTPS (HyperText Transfer Protocol over Secure Socket Layer). Regardless of choice of options, the network should allow connectivity and interoperability between heterogeneous platforms and support various protocols and exchange paradigms within a secure operating environment. It is not uncommon</i></p>
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	<p><i>that different stakeholders have different level of computerization and system on different platforms. To ease integration/interfacing/interoperability between these systems, a Single Window system which connects them needs to support interface with heterogeneous systems. Putting in place a strategic plan to address information and communication technology (ICT) infrastructure issues and a disaster recovery centre should be part of a business continuity plan. It is essential to ensure the effects of operating disruptions are properly mitigated.</i></p>	
3.1	<p>Is Network service available at all border posts, including ports/airports/cargo clearing house, in your country?</p> <p>If not, what is your country's future plan and targeted timeline to connect the stakeholders of the logistic and supply chain including controlling agencies?</p>	<p>Yes. CAIS and CEPS is available at all border crossing points via Virtual Private Network (VPN) services provided and controlled by CITA. In remote and seasonal border crossing points, Very Small Aperture Terminal (VSAT) are used for connectivity.</p> <p>MNCCI e-applications are available to private sector stakeholders from the trading community, via regular internet connectivity whilst connectivity between MNCCI head office and its regional offices is via VPN.</p>
3.2	<p>Are the <u>systems mentioned in 2.1</u> connected via a common/single network?</p> <p>If yes, does it have the following features?</p> <p>(i) an integrated secure network;</p> <p>(ii) able to provide a high availability rate of minimum 99.9% in terms of service level agreement for trade data exchange in paperless environment;</p> <p>(iii) able to support various communication protocols;</p> <p>(iv) able to provide secure information exchanges that ensure confidentiality and data integrity</p> <p>(v) designed to take into account future requirements such as device and technology upgrades</p>	<p>Yes. Only e-Customs have been implemented. All BCPs are connected via VPN with VSATs as back up.</p> <p>(i) Yes. It is a secured network.</p> <p>(ii) No. There is no service level agreement with service providers.</p> <p>(iii) Yes. It is able to support various communications protocol. Communication protocol used is Socket, SOAP, JSON, XML</p> <p>(iv) Yes. Last year, already commenced cross border data exchange with Russian Federation, and testing with China (see Section B).</p> <p>(v) Upcoming. Design is in progress under the RIBS project. Under the name of SMART-BORDER, MCGA is planning to implement RFID technology & number identification system in 2019.</p> <p>Yes. The e-Customs is being upgraded and targeted for implementation in 2020. For GASI, the target is 2021. No targets or timelines indicated for all other government agencies.</p>

	If any of the above is lacking (i ~ v), what is your country's future plan to upgrade it and what is the targeted timeline?	
3.3	<p>If a Single Window System is implemented, is it able to integrate/interface/interoperate with other existing heterogeneous systems (i.e. with systems on different platform)?</p> <p>If it does support (is able to interoperate with) heterogeneous systems, what is the method of integration/interfaces?</p>	<p>No Single Window</p> <p>Note: The current e-Customs systems, which acts with similar functions to a Single Window, is being upgraded under the RIBS project. It is envisioned that the upgrades will include interoperability features between MCGA's CAIS and the OGA/PIA paperless trade system when it is established.</p> <p>Currently, Only MCGA is using CITA's SSO and e-signature services. Data exchange from OGAs to MCGA, specifically the OGA's approval information to MCGA, is directly to CAIS and not via KHUR's inter-agency data sharing and exchange.</p> <p>No support.</p> <p>Note: Design is in progress for interoperability with heterogeneous systems.</p>
3.4	<p>Does your country have a strategic plan to address information and communication technology (ICT) infrastructure issues (for paperless trade)?</p> <p>If not, what is your country's future plan and targeted timeline to establish the strategic plan?</p>	<p>Partially. In addition to National Data Center, there is also an e-Government Portal called "KHUR". (See Section A.2.1.). However, each agency is reported to be working in isolation and in silos. Example, MCGA is purely working on customs services despite that the upgrades to their existing CAIS will include Single Window components.</p>
3.5	<p>Is there any policy for the establishment of a Disaster Recovery (DR) at</p> <ul style="list-style-type: none"> - agency level? - national level? <p>Please state the Disaster Recovery (DR) implementation at</p> <ul style="list-style-type: none"> - agency level (specify the %) - national level. 	<p>Partially. Only for the e-Customs system - CAIS/CEPS systems is currently located in MCGA Headquarters with backup systems. It will later move to the National Data Centre in Ulaanbaatar. The National Data Center is being built by CITA with its disaster recovery site in Darkhan, approximately 200 km from Ulaanbaatar.</p> <p>CITA indicated that the National Data Center and Disaster Recovery site will be ready by 2020.</p>

	If not, what is your country's future plan and targeted timeline to set up a Disaster Recovery (DR)?	
3.6	Does your country have a business continuity plan for paperless trade systems? If yes, is it regularly tested? If not, what is your country's future plan and targeted timeline to develop a business continuity plan?	No. for the only paperless trade system (e-Customs system (CAIS/CEPS)), there are no operational procedures for reversion to manual system in the event of downtime. All electronic processes will be on hold until the system is operational again. It is expected that the RIBS project team will address the business continuity plan as part of the upgrade e-Customs system and the Single Window system.
4.	Security <i>The confidence of users to replace paper-based document with electronic information or data is to an extent dependent on how the IT system manages the electronic data in a secured manner.</i>	
4.1	Is there any information technology (IT) security policy for your country? If yes, please specify.	Yes. The security policy is controlled by Mongolia's National Intelligence Agency. Usage of e-signatures, single sign on measures and public key infrastructures (PKI) to ensure security of access and data integrity. The service itself is managed and operated by CITA though KHUR.
4.2	What kind of security measures undertaken to protect system(s) mentioned in 2.1 (if any of them is implemented) from unauthorized access?	Single sign on measure couple with e-signatures to protect the KHUR system and e-Customs from unauthorized access.
4.3	What kind of authentication mechanism used to ensure security of information transmitted electronically?	e-Signatures and Public Key Infrastructure.
4.4	What kind of communication protocol is used for electronic data exchange currently?	Communication protocol used includes Socket, SOAP, ebMS, etc. (e-Customs system only)
4.5	What is your country's future plan to enhance the security level mentioned in 4.1 and 4.2 and what is the targeted timeline?	No solid plans with timeline indicated at this point of time. There are some plans to incorporate international standards until CITA obtains further budget, CITA indicated to be hopefully in 2019, but not certain, especially as there is no budget allocated. At this point of time, CITA is not involved

		in providing security services to facilitate cross-border paperless trade. CITA is hoping that the National Single Window committee, yet to be established, will be able to provide them the directions to secure cross-border data integrity. The current policy is adequate to meet the national requirements for KHUR.
5.	Business Process Re-engineering <i>Failure to review and re-engineer a manual procedure/process in the development of an electronic system will often lead to inefficiency of the system. It will further jeopardize integration/interfacing with other systems if business processes across the board are not streamlined to ensure seamless flow of information. Implementation of an electronic system often begins with parallel processing of paper document, but the ultimate goal is to discontinue the usage of paper document.</i>	
5.1	Have the stakeholders in your country conducted re-engineering and streamlining of business processes to support paperless trade/national Single Window (i) at agency level? (Please list them) (ii) at national level?	Partially. Only MCGA has undergone a business process re-engineering and simplification. For GASI, only Risk Management team has some limited experienced, but will be undergoing its own business process reengineering in their development path for GASI's Inspection Management Systems (IMS), expected to be completed by 2021. All other OGA/PIAs have not undertaken such activities.
5.2	Has your country implemented any paperless trade transactions? If yes, what kind of transactions are implemented, and type of electronic documents are exchanged? If not, what is your country's future plan and targeted timeline to do away with paper-based documents?	Yes. Only for e-Customs systems on customs declarations, supporting documents and manifest information. All other OGA / PIA are still paper-based, and documents exchanged are still paper basis. No. There are no set timelines for doing away with paper-based documents. The target deadline for implementation of the preliminary Single Window is 2020. The legal environment for single window has been identified. It is in line with the resolution/decreed issued in 2006 for e-services paperless environment.

6.	Data Harmonization and Standardization <i>Data compatibility is one of the main issues that need to be addressed in various connectivity projects in and around the region. Thus, if data harmonization and standardization can be carried out as early as possible, seamless data exchange will be achieved without compatibility issues especially if it is based on international standards.</i>	
6.1	<p>Has data harmonization and standardization been conducted on the data elements for paperless trade.</p> <p>(i) at agency level? (ii) at national level?</p> <p>If yes, has a data model been adopted and is it based on international standards/guidelines, such as United Nations rules for Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT), United Nations Code for Trade and Transport Locations (UN/LOCODE), Core Component Technical Specification (CCTS), Core Component Library (CCL), World Customs Organization Data Model (WCO DM), etc.?</p>	<p>Partially. Only MCGA has undergone data harmonization and simplification. GASI will be undergoing its own data modelling in their development path for GASI's Inspection Management Systems (IMS). All other OGA/PIAs have not undertaken such activities.</p> <p>Yes. MCGA's data model is in accordance to the WCO Version 2 and currently being upgraded to Version 3.7.</p>
7.	Capacity Building <i>Capacity building is an ongoing activity in most projects but is important particularly at the onset of a project to ensure stakeholders have a common understanding on the project and their respective role and responsibilities to make it a success.</i>	
7.1	<p>Has your country conducted any awareness program and/or workshop to ensure the stakeholders (government agencies and traders) having a common understanding on 'paperless trade' and to have better insight in the requirements of 'paperless trade' as well as their respective role to help realize cross-border paperless trade data exchange?</p>	<p>Partially. Previously several awareness programmes and workshops were conducted by NTTFC and MNCCI. Stakeholders only fully understand the e-Customs approach for paperless trade due to the programmes conducted by MCGA for customs brokers and freight forwarders.</p>
7.2	<p>Do the stakeholders of cross-border trade in your country fully understand the Single Window approach?</p>	<p>Partially. They have some understandings from the previous NTTFC and MNCCI programmes concentrated on national level trade facilitation. Many stakeholders have commented that there is very limited coverage of any capacity building and awareness on cross-border paperless trade.</p>

		Also, many stakeholders from both public sector and private sector have commented that there has been no continuity of such programmes, since the change of government in 2016. Stakeholders only fully understand the e-Customs approach for paperless trade due to the programmes conducted by MCGA for customs brokers and freight forwarders.
7.3	Has your country conducted any awareness program or workshop on Single Window?	Partially. Not specifically on overall Single Window but from certain perspective i.e. from customs processes.
7.4	What is your country's future plan and timeline to enhance capacity building for cross-border paperless trade data exchange?	No timelines indicated. Awaiting directions and plans from NTTFC.
8.	Others	
8.1	(i) What is the level of computer literacy in the trading community in your country as a whole to support electronic transactions? (>75%=High, 50%=Medium, 25%=Low) (ii) Are they ready to accept changes arising from re-engineered business processes in implementing paperless trade systems?	Most of the trading community have some internal office automation and systems for their regular business environment. However, such systems are not up to the level of CRM or ERP due to budget constraint, except some larger organizations. Only banks and mobile phone companies are trying to implement more sophisticated automated systems e.g. SAP. As such, the overall computer literacy amongst the trading community is deemed to be >75% (High). Yes. Based on interviews, it is noted that the trading communities welcomes positive changes arising from implementation of a paperless trade environment. They believe that this will result in cost reduction and speed efficiency. The only concern they have is the "double work" that they will encounter during implementation and the transition period where applications may be electronic but physical support documents are still requested by the authorities. They are willing to endure such challenges if hopes that they are kept informed of the progress so they can execute effective planning in their business processes.
8.2	Does your country encounter budget constraint in implementing paperless trade system?	Yes. Budget constraint is the primary factor for implementation of paperless trade systems in Mongolia. There has been financial assistance from developing partners, with the main beneficiary being MCGA and recently, GASI. MCGA's systems have been assisted by ADB and the Government of Republic of Korea, and GASI's system also aided by ADB. All other OGAs may receive some financial assistance, but not in modernization or implementing paperless trade system, but more into operational requirements of the particular OGA, e.g. upgrading laboratory equipment, quarantine facilities.

	If yes, what is your country's future plan to overcome this financial constraint and what is the targeted timeline?	It is commented that there is no concerted effort from NTTFC to seek budget plans from the Government. MASM and CITA mentioned their biggest challenge is lack of budget from the Government and they lack the capability to source for external financial assistance. Compounded by the non-existence of a Single Window committee, all financial assistance from external parties are utilized by the respective recipient for their own projects.
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Section B: National Status Towards Cross-Border Data Exchange

No.	Questions	Elaboration on status/issues
<i>Ideally, all stakeholders of cross-border trade should be on board the cross-border data exchange project to bring forth full benefits. In this respect, it is important that their IT systems support cross-border data exchange. A Single Window system is meant to connect systems of the stakeholders via a single point of connectivity providing more efficient integration/interfacing. Likewise, a National Single Window which acts as the national single point of connectivity will tend to ease integration/interfacing for cross-border data exchange with dialog partners.</i>		
1.	What is the percentage of systems mentioned in Section A 2.1 (if any of them is implemented) support cross-border data exchange?	The only system supporting cross-border data exchange is the MCGA's CAIS and CEP systems. Since 2017, exchange of export information and X-Ray results started between Russia Federation and Mongolia (between customs). Also, manifest information exchange is being tested between China and Mongolia (between customs). In the Greater Tumen Initiative (GTI), which involves China, Mongolia, Republic of Korea, Russian Federation, members are working towards inter-connectivity between the Single Window system of the respective countries. ⁴⁶ The MCGA e-Customs is undertaking the role of single point for cross border data exchange, as other stakeholders have not been identified as the lead agency for cross border paperless trade nor for the national Single Window. Even though MNCCI is e-enabled for issuance of electronic certificate of origin, there are no initiatives planned to enable cross-border mutual recognition of the electronic information. The complexity is that the recipients for certificate of origin information would be customs administrations of the importing country. It will be challenging for a private sector issuing party (e.g. MNCCI) to negotiate mutual recognition with a government authority of the importing country.

⁴⁶ In accordance with the GTI Strategic Action Plan (2017-2020). Amongst the related initiatives under GTI would be (a) Increase the effectiveness and the efficiency of the border-crossing procedures for the movement of goods and people; (b) Promote agricultural cooperation for achieving sustainable agricultural development and ensure food security in the region; (c) Create a positive environment to facilitate trade and attract private sector investment in the region, and improve access to international financial institutions for both public and private sector investment. <http://www.tumenprogramme.org/>

No.	Questions	Elaboration on status/issues
2.	<p>If a Single Window mentioned in Section A 2.2 is implemented, does it support cross-border data exchange?</p> <p>If 'Yes', does it function as the National Single Window which acts as the national single point of connectivity for any cross-border data exchange with other dialog partners?</p>	<p>No. Not now but the upgraded component of CAIS/CEPS will consist of Single Window components and is designed for cross border data exchange, but only for exchange of custom-related information. GASI, with its new Inspection Management System, targeted to be implemented by 2021, is supposed to have cross-border data exchange capabilities though the Single Window. However, the Project Implementation Unit of RIBS was unable to share any information on the Single Window and its cross-border exchange components and was still waiting for further directions when assessment was conducted.</p> <p>GASI intends to have cross-border data exchange on sanitary and phytosanitary export/import information with their trading partners' respective authorities. They have commenced discussions with AQSIQ (General Administration of Quality Supervision, Inspection and Quarantine) China. (Now restructured under both General Administration of Customs of the People's Republic of China (GACC) and the newly formed State Administration of Market Regulations (SAMR)). In addition, GASI intends to exchange mutual recognition information pertaining to laboratory certification for goods imported into Mongolia and vice versa for goods exported to China and Russian Federation. These plans have been proposed during the SPS Workshop in March 2018 and agreed to by the senior management of GASI. The Project Implementation Unit is now designing and executing the plans for Inspection Management System and GASI border management teams are negotiating with their counterparts in China and eventually Russian Federation. There has been no indicated of similar initiatives or plans by the other OGA/PIAs.</p> <p>No. Not at the moment, but according to the plan, it is designed to act as the national single point of connectivity for any cross-border data exchange.</p>

<p><i>When business process re-engineering is done on domestic procedures/processes for paperless transaction at the national level, it has to take into consideration requirements for cross-border data exchange whereby paper document will not be exchanged across border.</i></p>		
<p>3.</p>	<p>If your country has implemented paperless transactions at the national level as mentioned in Section A 5.2, has re-engineering and streamlining of business processes been conducted to support cross-border data exchange?</p> <p>If not, what is your country's future plan and targeted timeline to develop a regional business process for cross-border data exchange?</p>	<p>Partially. For MCGA's CAIS and CEPS only (see Section B.1.). Since 2017, it has already been commenced cross border data exchange of export information and X-Ray results between Russian and Mongolian customs. Also, Mongolian customs started to use joint e-manifest at the designated border or port from 1 December 2018 as a test with Chinese customs. Manifest information exchange is live now. GTI is between China, Korea, Mongolia and the Russian Federation.</p>
<p><i>If data harmonization and standardization is done based on international standards which are adopted by most organizations or countries in the region, it will minimize changes in the national system process and database structure when implementing cross-border data exchange electronically.</i></p>		
<p>4.</p>	<p>Has data harmonization and standardization been conducted based on international standards/guidelines such as United Nations rules for Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT), United Nations Code for Trade and Transport Locations (UN/LOCODE), United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) Single Window Recommendation, etc. to support cross-border paperless trade data exchange?</p> <p>If not, what is your country's future plan to minimize changes in your system process and database structure for cross-border data exchange electronically?</p>	<p>Yes. Data harmonization and standardization in MCGA has been conducted based on the WCO guidelines. It is planned to be migrating from WCO Data Model 2 to 3.7. Under the RIBS projects, the upgrades will be designed in accordance with United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) Single Window Recommendation. MCGA is currently undergoing training on this. PKI and other data standardization in KHUR meet national requirements and technically sufficient for cross-border data exchange (Section A. 4.5.).</p>

5.	International Transit	
<p><i>Among the issues faced by transit traders under the current international transit procedure in many countries in the region are:</i></p> <p><i>(i) Repetitive submission of a customs transit declaration at entry to every country of transit; and</i></p> <p><i>(ii) A security document needs to be registered at every country of transit.</i></p> <p><i>To address the above issues, the following could be considered:</i></p> <p><i>(a) A single Customs Transit Declaration to be valid for the whole transit route: Data and information of the Customs Transit Declaration submitted and approved at the country of departure to be shared across border with the countries of transit and country of destination.</i></p> <p><i>(b) A single guarantee to be valid for the whole transit route: Relevant data/information of the guarantee registered at the country of departure to be shared across border with countries of transit and country of destination.</i></p> <p><i>If single stop inspection is done by all controlling agencies at the exporting country and data of the inspection results is shared with the importing country, it will definitely expedite cargo clearance.</i></p>		
5.1	<p>Is paperless Customs declaration implemented in your country for:</p> <p>(i) national transit procedures (inbound transit, outbound transit, inland transit)?</p> <p>(ii) international transit?</p> <p>If yes, is the Customs regime in your country able to support implementation of a single Customs Transit Declaration and single guarantee valid for the international transit route taking into consideration the following?</p> <p>(i) to agree on a guarantee registered at the country of departure, covering the highest duty amount calculated based on duty rate of each country in the transit route, to be valid and accepted throughout the transit route; and</p> <p>(ii) to agree on a regional/sub-regional format and content of the single guarantee;</p>	<p>No. It is currently on physical document based.</p> <p>No. Transit documents in physical form are subject to be checked at the inbound and outbound border crossing points.</p>

	If not, what is your country's future plan and targeted timeline to address this issue?	Partially planned. Actual implementation to be considered after implementation of the new CAIS system in 2020.
5.2	<p>Has your country implemented a one stop inspection system by all controlling agencies at the borders at the time of exit/export?</p> <p>If yes, is the inspection results shared with the importing country?</p> <p>If not, is there any intention to implement a single stop inspection and what is the timeline?</p>	<p>No. Inspection, if any, is conducted separately by controlling agencies at BCP. Currently, only documentary checking is conducted.</p> <p>No plans indicated.</p>
6.	<p>Awareness Program</p> <p><i>Awareness program is important for stakeholders to understand how cross-border data exchange could be carried out so as to reduce their anxiety and that they will be prepared to address any issues that may arise.</i></p> <p><i>If a country lacks the expertise to carry out business process analysis, data harmonization & simplification, system development, project management, etc, it may look for technical assistance from external party.</i></p>	
6.1	<p>Does your country have an awareness program (capacity building / training / workshop etc) for stakeholders to have a better understanding on:</p> <p>(i) how cross-border data exchange could be implemented;</p> <p>(ii) potential business transactions and documents for cross-border data exchange;</p> <p>(iii) method of identifying inhibitors that need to be addressed</p> <p>If not, what is your future plan and targeted timeline to conduct the awareness program?</p>	<p>No. Previously several awareness programmes and workshops were conducted by NTTFC and MNCCI on paperless trade. Many stakeholders have commented that there is very little coverage of any capacity building and awareness on cross-border paperless trade. MCGA has undergone capacity building and training on cross-border data exchange. Plus, in March 2018, a preliminary workshop was conducted by GASI on cross-border data exchange of SPS related information.</p> <p>No plans have been identified for country level. Any initiatives would be on agency level and the only stakeholder would be MCGA.</p>

	(iii) Is your country ready to sign any Mutual Recognition Agreement for Authorized Economic Operator (AEO) with dialog partners?	
<i>In the preparatory stage, it is useful to assess the readiness of stakeholders in accepting changes arising from cross-border data exchange, and availability of fund for any potential cross-border paperless trade project</i>		
7.2	<p>Are the stakeholders and trade community ready to accept changes arising from the re-engineered processes towards cross-border data exchange?</p> <ul style="list-style-type: none"> • Regulatory agencies • Agents/Customs brokers • Traders • Port Community • Financial institutions • Others (Please specify) 	<p>Yes. The stakeholders welcome any efforts to implement paperless trade systems. However, their concerns are from the overseas partners which still requires paper-based documents. They see it could be double efforts, unless dependency of paper-based documents by the overseas partner's authorities are also removed. Only MCGA will have adequate knowledge of this as they are currently undergoing cross-border data exchange with Russian Federation and testing with China. All other stakeholders are uncertain of benefits and way forward as there has been no serious awareness campaigns nor capacity building plans to prepare them for cross-border data exchange.</p>
7.3	<p>Does your country's government budget provisioned for transition to cross border paperless trade data exchange?</p> <p>If no, what is your targeted timeline?</p>	<p>No. There is no indication of budget of any kind for paperless trade.</p> <p>No deadlines indicated specifically.</p>
<i>Sharing of information on countries' preference on the prioritized documents for cross-border data exchange can help identify potential participants having same or similar preferences to work together on pilot projects that meet their common preferences.</i>		
7.4	<p>Is your country considering cross-border data exchange for any of the following documents and related processes? (Y=Yes, N=No) (Please select top 5 prioritized documents)</p> <ul style="list-style-type: none"> (i) Sea Way Bill (ii) (Advance) Manifest (iii) Customs Transit Declaration (iv) Transit Bond (v) Phyto-Sanitary Certificate 	<p>(ii) Yes. Currently being tested with China.</p> <p>(v) Yes. Being explored to replace the paper-based data exchange for certain goods.</p>

	<ul style="list-style-type: none"> (vi) Sanitary Certificate (vii) Fumigation Certificate (viii) CITES Certificate (ix) Certificate of Origin (Preferential) (x) Certification of Origin (non-preferential) (xi) Pharmaceutical Certificate (xii) National Standard and Quality Certificates (xiii) International Organization for Standardization (ISO) and other international standards and quality certificates (xiv) Certificate for medical devices (xv) Certification of Electrical and Electronic Components, Equipment and Product (xvi) Dangerous Goods List (xvii) Material Safety Data Sheet (MSDS) (xviii) Letter of Credit (xix) Bill of Lading (xx) Invoice (xxi) Packing List (xxii) Import Permit (xxiii) Others (Please specify) 	<p>(vi) Yes. Being explored to replace the paper-based data exchange for certain goods.</p> <p>(x) Yes. MNCCI has implemented e-application for CO. However, issuance is still based according to the requirements by importing country. MCGA is working with their counterparts on acceptance of e-CO by the importing country's customs authorities and waiting for implementation of National Single Window.</p> <p>(xii) Yes. Being explored by MASM. Currently, MASM processes are paper-based.</p>
<p>7.5</p>	<p>For each of the five (5) prioritized documents identified in 7.4, please provide further information on the following:</p> <ul style="list-style-type: none"> (i) The implementing agency/party: Documents Implementing agency/party (ii) How many % of the document and related processes is paperless? Documents (%) 	<ol style="list-style-type: none"> 1. Advance Manifest <ul style="list-style-type: none"> (i) MCGA (ii) Paper-based, digitalized and uploaded into MCGA systems 2. Phytosanitary Certificates <ul style="list-style-type: none"> (i) GASI (ii) Currently entirely paper based 3. Sanitary Certificates <ul style="list-style-type: none"> (i) GASI (ii) Currently 0% entirely paper based 4. Certificate of Origin <ul style="list-style-type: none"> (i) MNCCI / MCGA

		<p>(ii) Applications – 100% paperless but need to be printed out on paper for importing country's authorities</p> <p>5. National Standards and Quality Certificates</p> <p>(i) MASM</p> <p>(ii) Currently MASM processes are paper-based.</p>
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Annex IV. Cross-border paperless trade: a legal readiness checklist: Mongolia

Scope and structure of the checklist

This checklist will help evaluate the degree to which current laws accommodate electronic documents and communications, notably those with cross-border elements, and what could be done to bring the laws into conformity with the Framework Agreement on Facilitation of Cross-Border Paperless Trade in Asia and the Pacific, which aims to help member states to accommodate these changes for the purpose of cross-border trade without paper.

The Checklist is structured in four sections as below:

Section A. Electronics transactions and signatures law

1. Electronic transactions
 - a. Electronic communications
 - b. Identity management and trust services
2. Data retention and electronic archiving
3. Electronic evidence

Section B. Paperless trade and Single Window laws

1. Single Window system/paperless trade system
2. Information security:
 - a. Information security and data confidentiality
 - b. Data accuracy and integrity
 - c. Sharing information and data between and among government agencies
3. Service level agreements (SLA) and memoranda of understanding (MOUs)

Section C. Cross-border aspects

1. Existing bilateral or regional agreements
2. International standards/guidelines
3. Existing bilateral or multilateral technical /operational agreements
4. Other international legal instruments, regulations and standards

Section D. Other considerations

1. Liability issues
2. Dispute settlement considerations
3. Intellectual property rights and database ownership
4. Electronic payments
5. Competition law

CONSOLIDATED RESPONSES TO LEGAL READINESS CHECKLIST**A. Electronics transactions and signatures law**

This first section of the checklist deals with basic laws supporting electronic transactions and electronic signatures. The Framework Agreement addresses these concerns, directly or indirectly, in articles 5, 6 and 7. In particular, the first three principles included in Article 5 (General principles) represent the international consensus on e-transactions law.⁴⁷ Key electronic transactions legal issues in this section include legal recognition of electronic communications and legal issues related to identity management and trust services, including electronic signatures. Other important related issues covered are the regulatory/legal requirements for data retention and electronic archiving; and the admissibility of electronic evidence, for example, in judicial and enforcement proceedings.

Legal matters	Focus Questions	Response
Related provisions of the Framework Agreement: <ul style="list-style-type: none"> ○ Article 5: General principles; ○ Article 6: National policy framework, enabling domestic legal environment and paperless trade committee; ○ Article 7: Facilitation of cross-border paperless trade and development of Single-Window systems: More specific questions on the Single Window appear below in part II. 		
<i>The first block of questions aims to explore the laws generally, with special attention to those that affect Single Window and/or cross-border trade documentation practices.</i>		

⁴⁷ The Framework Agreement sets out the internationally recognized criteria for such laws, such as media neutrality (the laws apply in the same way, or with the same effect, to paper and electronic documents), technology neutrality (the laws do not specify what technology to use to achieve the legal effect), and functional equivalence (electronic documents have the same practical or legal effect as their paper equivalents even if they have different characteristics).

<p>1. Electronic transactions legal issues, including:</p> <p>a. Legal recognition of electronic communications;</p>	<p>○ What are the conditions for the recognition of the legal validity of electronic communications?</p>	<p>Law on Electronic Signatures contains definitions and explanations on the conditions for the recognition of the legal validity of electronic communications:</p> <ul style="list-style-type: none"> • Article 4 defines an electronic signature as follows: electronic data that contains attached or aggregated words, letters, numbers, symbols and images in electronic documents intended to identify the signed document; [OR: to describe the person who signed in electronic document.] It defines a digital signature in this way: “the type of electronic signature, which constitutes the form of the document, which is created by the use of digital signature private key to convert the information into cryptographic transformation to protect or modify electronic documents.” • Article 5 appears to give general permission to use an electronic signature – the broad definition – for most purposes of law: “Unless otherwise stated in the law, an electronic signature shall be used as a regular signature.” [OR: electronic signatures shall be treated as equivalent to handwritten signatures.] • However, article 6 requires state bodies to use digital signature (with certificates) on electronic documents: “6.3. State bodies, other state-owned and partly state-owned legal entities shall use [only] digital signatures to transfer and transmit electronic documents to others.” • Further, article 6.6 appears to require legal entities (so other than individuals) to use a digital signature – at least if they have a certificate: “6.6. If digital signature certificate holder is a legal entity, digital signature shall be used by official authorized to represent the legal entity in the electronic document.” • Certain kinds of transaction with electronic documents require the use of a digital signature. It is unfortunately difficult to tell from the available translation the exact scope of this obligation: “8.1. In the case of transferring or transferring electronic
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		<p>documents to or suppressing documents, digital signatures shall be used by the authorized person to sign and seal the digital signature specified in 6.2 and 6.5 of this Law.[...] In the case of electronically transferring, transmitting (receiving) sealed or shall be sealed document, must be used additional digital signature of the person, who is authorized to seal, in addition signature as referred in provision 6.2, 6.5 of this law.”</p> <ul style="list-style-type: none"> • Article 6.2 allows any citizen to use a digital signature if he or she has access to a proper certificate to accompany it. <ul style="list-style-type: none"> ○ A digital signature may be used by a citizen or legal entity with a digital signature certificate issued by the licence holder. • Article 6.5 has been repealed. • <p>Article 42 of the Civil Code encompasses the Electronic Agreement and Article 43.2.4 of the Law on Electronic Commerce, where parties make an electronic document expressing their will and signed with a digital signature specified in the electronic signature law. "Contracts shall be executed in electronic form if the parties make an electronic document and shall be concluded by signing a digital signature specified in the electronic signatures law ".</p> <p>Contracts may be oral, but if they are written, they must be signed – and article 43 says if they are electronic, they must be digitally signed.</p> <p>43.2.4. “In electronic form, the parties shall make electronic documents expressing their will and signed by digital signature specified in the Electronic Signature Law.</p> <p>The Electronic Signature Law was approved on 15 December 2011 and took effect on January 1, 2013. The purpose of the law is to create a legal environment related to the creation, protection and use of electronic signatures, the official use of files and e-mails for official use, and to enable the work of the Internet to have appropriate legal force, to</p>
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		<p>facilitate the operation of the government, and easily to bring the people to it. In connection with the implementation of the law, Resolution No. 45 of Communication Regulatory Commission dated September 30, 2014 approved the public key infrastructure of Mongolia and set out rules for the public key system.</p> <p>The main sources of law on this topic are:</p> <ol style="list-style-type: none"> 1. E-Signature law /2011.12.15/ 2. Parliament decree number 38 of 24 May 2018 on establishing the Electronic policy committee at the Parliament 3. Parliament decree number 61 of 15 Dec 2018 on an action plan on the implementation of the E-signature law 4. Government decree number 101 of 04 Apr 2012 on establishing an E-government national programme between 2012-2016 with action plan 5. Government decree number 27 of 25 Jan 2018 on the composition of a national committee or commissions & working group 6. Government decree number 259 of 22 Aug 2018 on the implementation action plan to provide public services electronically 7. Article 3.4.6 of the law on national security of 27 Dec 2001 8. Government decree number 141 of 02 Jun 2010 on approving a national programme on information security 9. Law on state & official secrets /2016.12.01/ 10. Section 27.6 of the Customs Law states that "[certain information] can be submitted through mail, other electronic data network, etc." <p>The Communications and Information Technology Authority (CITA) is preparing legislation for Parliament on how to make public services paperless and to support paperless processes. This will extend to cross-border communications and services.</p>
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	<ul style="list-style-type: none"> ○ Do laws establish requirements for functional equivalence between paper-based documents and electronic communications? ○ Do they recognize electronic communications as directly meeting requirements for documents, writing, signature, etc.? 	<p>Not directly. However, the E-Signature Law makes e-signatures valid on conditions much like those from the UNCITRAL Model Law on Electronic Signatures of 2001.⁴⁸ The approach is to handle the electronic versions of documents as an additional consideration, rather than going back to re-examine the foundations of their law. To do this, Mongolia has enacted article 42(super1) of the Civil Code and added a provision to the indicia of a concluded transaction in article 43.</p> <p>Only in part. Article 5 of the E-signature Law appears to give general permission to use an electronic signature – the broad definition – for most purposes of law. However, article 6 requires state bodies to use digital signature (with certificates) on electronic documents. Further, article 6.6 appears to require legal entities (i.e. other than individuals) to use a digital signature – at least if they have a certificate. Certain kinds of transaction with electronic documents require the use of a digital signature.⁴⁹ Article 6.2 allows any citizen to use a digital signature if he or she has access to a proper certificate to accompany it. The cryptographic key pair can be created by the signatory itself, but it is often issued by an agency known in Mongolian law as a license holder. The license holder issues a certificate that associates the public key of the digital signature’s key pair with the person who is able to create the digital signature. There are detailed regulations about how to issue a certificate and ensure it is accurate and up to date.⁵⁰</p> <p>Also, the Customs Automated Information System (CAIS) system is being set up to recognize a digital signature of the type promoted by CITA, with certificates from license holders. There is potential for such signatures to be used across government, and recognized likewise across government. This could be a step towards paperless clearances</p>
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⁴⁸ UNCITRAL: See Article 8 and http://www.uncitral.org/uncitral/uncitral_texts/electronic_commerce/2001Model_signatures.html

⁴⁹ It is unfortunately difficult to tell from the available translation the exact scope of this obligation.

⁵⁰ Communications Regulatory Commission, Procedures for Public Key Infrastructure for Mongolia's Digital Signature, Regulation 2014-45, available from: <http://www.crc.gov.mn/k/BG>.

<p>b. Legal issues related to identity management and trust services, including electronic signatures</p>	<ul style="list-style-type: none"> ○ Are there laws that inhibit technological neutrality by mandating or favoring the use of specific technologies or business solutions for e-communications to be given legal effect? ○ Do laws address how identification, authorization and authentication are carried out in an electronic environment? ○ For all the questions above, are those laws applicable to all electronic communications or transactions or only to some business sectors or categories of documents or users? ○ In particular, are there special rules for specific types of electronic documents such as 	<p>of all contributing authorities to the customs process, which in turn would make a Single Window more feasible.</p> <p>Yes. Many signatures, including all official signatures, must be digital signatures supported by public key certificates.</p> <p>Most uses of PKI certificates in Mongolia are for official purposes. The Communications and Information Technology Authority (CITA) estimates that about 8,500 certificates have been issued to date, largely to public sector users. The main uses are for electronic procurement, electronic taxes and electronic social insurance matters. There is little private sector use so far. However, the certificates are available to businesses if they want them.⁵¹ They would be mainly used, as a method of authenticating an individual in a business relationship.</p> <p>Not expressly. Legislation on e-commerce is required.</p> <p>Yes. Most of the rather sparse legislation appears to apply to all sectors, though some – as indicated above – governs state transactions in particular.</p> <p>Yes. Within the framework of the implementation of joint inspection and controlling system with Chinese customs, Mongolian customs is starting</p>
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⁵¹ Interview with the Communications and Information Technology Authority, November 27, 2018.

	<p>bills of lading, manifests, certificates of origin, invoices, phytosanitary certificates, etc.?</p>	<p>to use joint e-manifest at the designated border or port from 1st of Dec 2018 as a test. And from 1 January 2019, they have expanded the programme and officially started to implement.</p> <p>There is also an MOU with Russian Federation about the form of manifests.</p>
<p><i>The second block of questions explores laws relating to data retention and archiving, actions that take a different form in the electronic world from on paper.</i></p>		
<p>2. Regulatory/legal requirements for data retention and electronic archiving</p>	<ul style="list-style-type: none"> ○ Are there laws requiring preservation of stored information? ○ Do they prescribe a minimum data retention period or a maximum retention period? ○ Do they clearly apply to electronically-stored data? If so, are there rules to ensure its integrity while stored and its accessibility to anyone with sufficient cause to inspect it? 	<p>Yes, but the laws are of general application, not specifically directed at information in electronic form.</p> <p>Yes for minimum, no for maximum.</p> <p>Yes. They are presumed to apply to electronically-stored data. There are not yet special rules about integrity. Data security legislation is being prepared.</p>
<p><i>The final block of questions in this first set looks to the law of evidence, i.e. whether businesses or even government will have a hard time proving their cases in a court or before a regulatory body because the records involved are in electronic form.</i></p>		

<p>3. The admissibility of electronic evidence, for example, in judicial and enforcement proceedings.</p>	<ul style="list-style-type: none"> ○ Is electronic evidence admissible in judicial and administrative/regulatory proceedings? ○ If so, are there special rules for collecting or producing electronic evidence, or for ordering the disclosure of electronic evidence? ○ Is a distinction made between evidence for criminal proceedings and for civil proceedings? ○ Is electronic evidence generated, stored or collected abroad admissible in judicial and administrative/regulatory proceedings? Are the rules about such 'foreign' evidence different from those applicable to other kinds of 'foreign' evidence? 	<p>Probably not. The general Mongolian law of evidence does not seem to deal whether the decision-maker to be able to deal with information created in electronic form or not directly. There is a conflict of opinion on whether electronic evidence is admissible in Mongolia. The better view seems to be that it is not, or at least that the special characteristics of electronic documents that make prudence advisable are not widely appreciated.</p> <p>Partially. Some assistance may be derived from the statutory provisions we have seen earlier that make electronic and digital signatures the equivalent of handwritten or regular signature. To the extent that signed documents are more readily admissible in evidence, electronically signed documents will benefit from their statutory status.</p> <p>Yes. The Mongolian Criminal Procedure Code might support a "certified" version of an electronic document for the same purposes.</p> <p>The Code of Criminal Procedure has rules about certified business records that might support certificates of authenticity for electronic records. It is not clear that the rules have been used for this purpose.</p> <p>No information. It is not known whether the courts or administration would discriminate against foreign-source electronic evidence, if they were prepared to admit such evidence from domestic sources.</p>
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B. Paperless trade and Single Window laws

This section deals with the laws relating to implementing and developing a paperless trade system (including but not limited to a Single Window system). These matters relate in particular to Article 6 and 7 of the Framework Agreement. Article 6, due to its wide scope, can cover many legal aspects relating to creating an enabling national policy framework for paperless trade. Article 7 specifically encourages parties to implement and develop a cross-border paperless trade system, in particular a Single Window.⁵² Accordingly, this section of the checklist first covers basic legal issues related to implementation of a Single Window and/or other paperless trade system(s). Given the importance of information security and data confidentiality to enhance users' trust and confidence to adopt a paperless trade system, it then explores legal issues related to information security, including (1) Laws and regulations on information security and data confidentiality; (2) Laws and regulations on data accuracy and integrity; and (3) Laws and regulation on accessing and sharing information. It also includes questions on service-level agreements and memoranda of understanding (MOUs) for paperless trade.

Legal matters	Focus Questions	Response
<p>Related provisions of the Framework Agreement:</p> <ul style="list-style-type: none"> ○ Article 6: National policy framework, enabling domestic legal environment and paperless trade committee: ○ Article 7: Facilitation of cross-border paperless trade and development of Single-Window systems. 		
<p><i>The first block of questions aims to assess a country's readiness to implement a paperless trade system/Single Window system.</i></p>		
<p>1. Laws relating to the establishment of a Single Window system/paperless trade system</p>	<ul style="list-style-type: none"> ○ What legal instruments are used or need to be enacted to authorize or to establish the Single Window and a paperless trading environment? 	<p>Law on Electronic Signature</p> <p>The Law on Customs and other related laws provides for electronic information exchange and electronic information in their respective fields. Such laws will be needed for all potential participants (public and private sectors) in a National Single Window, for their own fields and for collaboration with others.</p> <p>Within the framework of the Border Services Improvement Project, a Single Window system will be set up among several organizations in 2022.</p>

⁵² No specific provision in the Framework Agreement deals with the legal requirements on information security and data confidentiality.

	<ul style="list-style-type: none"> ○ Is there a national or coordinating agency to promote the domestic paperless trading environment (e.g. a Single Window committee)? If so, does it have government and private representatives on it? ○ Is there a dedicated budget to establish the Single Window (or paperless trading platform)? Is there a dedicated budget to establish the Single Window (or paperless trading platform)? 	<p>Within the framework of the implementation of WTO/TF agreement, a National Trade and Transport Facilitation Committee (NTTFC) was established by Government decree number 137 on 10 May 2017. The Minister of Foreign Affairs heads this committee. In order to support the activities of the national committee, three sub-committees were established.</p> <p>The composition of the national committee was approved by the decree of Minister of Foreign Affairs.</p> <p>The Committee consists of government agencies involved in foreign trade activities, the Mongolian National Chamber of Commerce and Industry, and some professional associations.</p> <p>The NTTFC exists with public and private sector representation or at least collaboration, though it is not clear whether it performs the task of promoting the domestic paperless trading environment.</p> <p>Not identified.</p>
<p><i>The second block of questions aims to explore laws relating to information security and data confidentiality, with special attention to those that affect Single Window and/or cross-border trade documentation practices.</i></p>		

<p>2. Legal aspects relating to information security: a. Laws and regulations on information security and data confidentiality;</p> <p>b. Laws and regulations relating to data accuracy and integrity when such data is shared for cross-border paperless trade systems</p>	<ul style="list-style-type: none"> ○ Do the national laws mandate information security standards? ○ Do the national laws protect the confidentiality of electronic transactions/information? ○ Are there laws about cyber-crimes, i.e. crimes using a computer (or other information and communication technology) or targeting a computer or a network, such as unauthorized access to computers, introducing malware, interfering with proper operations, etc.? ○ Are there national laws/regulations establishing requirements of accuracy and integrity of data submitted and processed for paperless trade? Are these laws of general application or specifically directed at paperless trade? 	<p>No. But a new Law on information security has been drafted and submitted to the Cabinet.</p> <p>Yes. The revised Criminal Code article 26 in 2015 regulates issues relating to the security of the electronic information. Its provisions apply to all media, so data integrity would have to be maintained in e-trade matters, domestic or international.</p> <p>Not yet – legislation has been drafted, not yet presented. However, there is a chapter on cybercrime in the Criminal Code: chapter 25 – crimes against the security of computer data (articles 226 – 229) harm to data, copying or obtaining it wrongfully or interfering with transmission, preparing hacking devices, spreading viruses. http://www.unodc.org/res/cld/document/mng/2001/criminal_code_of_mongolia_html/Mongolia_Criminal_Code_2002.pdf</p> <p>No (except criminal law of general application against fraud)</p> <p>Yes, generally and under general law.</p>
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<p>c. Laws and regulations for accessing and sharing information and data between and among government agencies;</p>	<ul style="list-style-type: none"> ○ Do these laws impose obligations on persons submitting such information and require processes to ensure correct attribution? Do they apply equally to paper and electronic communications? Are they consistent with the authentication and identity management rules mentioned earlier? ○ Are there agreements or policies for the sharing of data between government agencies within the country? Are there limits on such sharing based on personal privacy or commercial confidentiality? 	<p>Yes, there is a coordination of information sharing between government agencies by Government Resolution 159 of 2018. CITA works to coordinate policy and activity in developing electronic government. Customs has signed a cooperation agreement with the General Inspection Agency. There are no specific legal arrangements or coordination for consolidation of all government ministries and agencies. The government is working on a privacy law.</p> <p>One notable development in this area is the establishment of a system of online kiosks around the country through which Mongolians are able to access a number of public services. Further developments have taken many services online, and not only through kiosks.</p> <p>Some of the legal authority for publicly accessible services can be seen in a resolution of August 22, 2018, updating the list of those services.⁵³ The list (Appendix B) refers to activities of 38 governmental authorities, including a couple of municipal offices, and 320 separate services.</p>
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⁵³ The update decree is available from: <https://www.legalinfo.mn/law/details/13650>. The appendices with the lists are found at the same address, by clicking Appendix on the bar at the top left of the page. One appendix deals with ministerial responsibilities and the other with the list of available services.

<i>The third block of questions aims to explore legal mechanisms to regulate the relationship between paperless trade service providers and service users to facilitate electronic trade-related transactions.</i>		
3. Service level agreements (SLA) and Memoranda of Understanding (MOUs) on paperless trade operations, e.g. operation of a Single Window. (Service levels may be applicable for matters like availability, reaction time, processing time, etc.)	<ul style="list-style-type: none"> ○ Are there service level agreements or memoranda of understanding governing paperless trade operations? Who are the parties and what is their legal authority for making these agreements or MOUs? ○ If yes, what level of service is expected from paperless trade service providers? ○ What level of service is expected from Single Window operators? 	No.

C. Cross-border aspects

This section deals with the cross-border aspect of paperless trade, which is the ultimate focus of the Framework Agreement. The questions are inspired by articles 8, 9 and 10 of the Framework Agreement, which focus on: cross-border mutual recognition of trade-related data and documents in electronic form; international standards for exchange of trade-related data and documents in electronic form; and relation to other legal instruments enabling cross-border paperless trade, respectively.

A key issue in achieving seamless cross-border paperless trade is the legal recognition of trade-related data and documents in one country by another. Recognition involves attributing legal status of some kind to electronic messages exchanged across borders. Different legal mechanisms may achieve that goal. Some of those legal mechanisms will apply to certain types of transactions (for instance, business to business (B2B) or business to government (B2G)), while other legal mechanisms will apply only to specific types of documents or data sets, or to specific types of trust services (e.g. electronic signatures). Some legal mechanisms will establish legal recognition regardless of the method or technology used, while others are technology-specific. With respect to legal form, some mechanisms are treaty-based and therefore may be directly legally binding. Other mechanisms favour harmonization of legal systems through the adoption of uniform laws. Yet other mechanisms are based on Memoranda of Understanding and similar technical arrangements.

Article 8 of the Framework Agreement promotes mutual legal recognition of trade related data and documents in electronic form. It refers to the notion of “substantially equivalent level of reliability” to indicate that mutual legal recognition should be based on the general principle of technology neutrality. However, it does not establish any specific legal recognition mechanisms but is open to various options. Accordingly, many of the questions in this section aim in particular at identifying which laws and technical arrangements may have an impact on achieving such mutual legal recognition. Questions also extend to the broader focus of Articles 9 and 10: laws and other relevant agreements that prohibit, restrict or facilitate cross-border data flows for paperless trade, and any related activity. A non-exhaustive list of possibly relevant international instruments is also provided at the end of the section for ease of reference.

Legal matters	Focus Questions	Response
Related provisions of the Framework Agreement: <ul style="list-style-type: none"> ○ Article 8: Cross-border mutual recognition of trade-related data and documents in electronic form ○ Article 9: International standards for exchange of trade-related data and documents in electronic form ○ Article 10: Relation to other legal instruments enabling cross-border paperless trade 		
<p>1. Existing bilateral or regional agreements for cross-border paperless trade data exchange, including e-commerce and paperless trade facilitation provisions in regional trade agreements</p>	<ul style="list-style-type: none"> ○ Is the country party to an international agreement, such as a regional trade agreement or a bilateral trade facilitation agreement, that requires or favors the legal recognition of electronic messages exchanged across border? ○ Is the country party to an international agreement providing legal recognition of electronic messages exchanged across the border? 	<p>Yes. Within the framework of the implementation of joint inspection and controlling system with Chinese customs, Mongolian customs is starting to use joint e-manifest at the designated border or port from 1st of Dec 2018 as a test. And from 1 Jan 2019, they are expanding ports and have officially started to implement the programme more broadly.</p> <p>Mongolian Customs shares a form of shipping manifest with Russian Customs, electronically. A Memorandum of Understanding was signed between the two countries. Statistical exchanges will be possible by electronic means in a couple of years. Mongolia also has bilateral agreements with Russian Federation on preliminary e-notifications to Customs.</p> <p>Also Mongolian customs exchange necessary information about conflicts with Russian Federation and China. There is some sharing of equipment, such as x-ray machines, with Russian Federation.</p> <p>No.</p>

	<ul style="list-style-type: none"> ○ Are there arrangements that provide for mutual recognition of electronic messages and transmitted information? If yes, is mutual recognition granted on a bilateral or multilateral basis? ○ Does the country recognize foreign electronic signatures and certificates? If so, on what basis? ○ Are national laws relevant to paperless trade facilitation based on international models? (e.g. United Nations Commission on International Trade Law (UNCITRAL), Council of Europe, Organization for Economic Co-operation and Development (OECD), etc.) (Note also the questions below about international standards and agreements that may apply to some or all of your communications.) 	<p>No.</p> <p>Yes. Electronic Signature Law 2011 article 18. There appear to be no standards applied.</p> <p>“A digital signature certificate that is issued in accordance with the foreign jurisdiction shall be recognized in Mongolia.”</p> <p>The rules for finding an electronic signature reliable are modeled on the UNCITRAL Model Law on Electronic Signatures and the Electronic Communications Convention. See article 5 of the Electronic Signatures Law (2011).</p> <p>The Electronic Transactions Act (2004) article 9 followed the UNCITRAL Model Law on Electronic Commerce in timing of dispatch and receipt. This law is no longer in force, if it was ever adopted (which is not clear).</p>
<p>2. International standards/guidelines</p>	<ul style="list-style-type: none"> ○ Do participants in cross-border trade use or rely on standards/regulations/guidelines for the exchange of electronic messages? United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) Recommendations 35 and 36 on legal issues 	<p>Yes. Data harmonization and standardization in MCGA has been conducted is based on the WCO guidelines. It is planned to be migrating from WCO Data Model 2 to 3.7. Under the Regional Improvement of Border Services (RIBS) project, the upgrades will be designed in accordance with United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) Single Window Recommendation. MCGA is currently undergoing training on this</p>

	<p>raised by cross-border interoperability are examples of such guidelines.⁵⁴</p> <ul style="list-style-type: none"> ○ Have international legal standards/regulations/guidelines been incorporated into a country's legal framework for its cross-border paperless trade? If so, how? Does the incorporation of such rules at the domestic level also affect cross-border activity? 	<p>No, not significantly.</p>
<p>3. Existing bilateral or multilateral technical /operational agreements</p>	<ul style="list-style-type: none"> ○ Are there technical or operational agreements which provide for the unilateral or mutual recognition of electronic messages? Examples are the (Sanitary and Phytosanitary) SPS exchange agreement between China and Netherlands and Association of Southeast Asian Nations (ASEAN) Electronic-Association of Southeast Asian Nations Trade in Goods Agreement (e-ATIGA) programme. 	<p>Yes. Some multilateral agreements allow for electronic documents, but Mongolia is often unable to benefit from them because of lack of technical capacity. For example:</p> <ul style="list-style-type: none"> • Mongolia is a party to the CITES agreement (Convention on the International Trade in Endangered Species), • Revised Kyoto Convention on the Harmonization and Simplification of Customs Practices: This convention changes customs practice from inspecting every package to managing the risk of contraband or other unsuitable goods. Electronic forms are promoted. • Sanitary and Phytosanitary Agreement – National Notification Authorities can now use the SPS Notification Submission System (SPS NSS) to fill out and submit SPS notifications. • Convention on the Contract for the Shipping of Goods by Road (CMR Convention): This United Nations Convention standardizes the contract for goods carried

⁵⁴ Trade Facilitation Recommendations, available from: <https://www.unece.org/tradewelcome/un-centre-for-trade-facilitation-and-e-business-uncfact/outputs/cefactrecommendationsrec-index/trade-facilitation-recommendations.html>

		by road, and the manifest or shipping document that accompanies it, so it is readily accepted in all member states.
4. Other international legal instruments, regulations and standards relevant to enable cross-border paperless trade data	<ul style="list-style-type: none"> ○ Which other laws may be relevant to cross-border paperless trade facilitation? E.g., bilateral or multilateral agreements on cybercrime and taking of electronic evidence abroad. 	<p>Yes, the laws mentioned are excellent examples of what would be useful. For example:</p> <ul style="list-style-type: none"> • Mongolia has some recognition of the importance of cybercrime statutes (and some provisions in its Criminal Code at least for domestic instances) but has not turned its attention seriously to evidence yet. • World Customs Organization Harmonized Frontier Controls Convention: This Convention allows standard reference to products in trade, which makes standard form and thus electronically readable documents easier. • United Nations Layout Key: This document is used in conjunction with the previous instrument to allow forms to be understood even in language that the users do not speak

Non-exhaustive list of legislative texts relevant for cross-border recognition of electronic messages*

Treaty / Model Law	Implementation Status
Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific (2016)	No
Association of Southeast Asian Nations (ASEAN) Single Window Agreement (2005) and Legal Protocol (2017)	N/A

United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) Recommendation on Establishing a Legal Framework for International Trade Single Window (Recommendation 35)	Not used
United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Commerce (1996)	Internal interest in implementing this in Mongolia. Some elements in current law.
United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Signatures (2001)	In part
United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Transferable Records (2017)	Some internal recognition of benefits of this Model Law but no firm plans.
United Nations Convention on the Use of Electronic Communications in International Contracts (2005)	Planning to join
Convention on the International Sale of Goods (CISG) (1980)	Yes
World Customs Organization International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention, 2006)	Yes
World Trade Organization Trade Facilitation Agreement (2013)	Yes
Others (please specify): Trade-related Intellectual Property Measures (TRIPS)	Yes
New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards	Yes
Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES)	Yes
WIPO Copyright Convention, Berne Convention, etc	Yes
Madrid Convention on Trademarks (and Patent Cooperation) and WIPO itself	Yes
Convention on Temporary Admission (Istanbul Convention)	Yes
Convention on the International Carriage of Goods by Road (CMR Convention) and TIR Convention	Yes
Organization for Co-operation between Railways (OSJD)	Yes
Convention on the Harmonization on the Frontier Controls of Goods	Yes

Brussels Agreement on Harmonized Commodity Description	Yes
Intergovernmental Agreement on the Trans-Asian Railway Network	Yes

D. Other considerations

For paperless trade to be conducted in the best possible manner, the Framework Agreement requires parties to create an enabling national legal framework (Article 6) and remove all the relevant legal barriers. It is therefore recommended that the parties aim at building a national policy framework for implementation of the Framework Agreement that is both sophisticated enough to address all the pertinent legal issues and consistent with the relevant international legal instruments and standards for harmonious cross-border electronic data and document exchange. Therefore, besides the topics specifically addressed in substantive provisions of the Framework Agreement, parties may also wish to deal with related issues such as liability, dispute settlement, intellectual property, electronic payment and competition – which in some cases may have been addressed in other legal agreements (cf. Article 10). These matters may affect the effective operation of Single Window and other paperless trade systems, particularly in the cross-border environment.

These legal issues may be handled by different sets or sources of legal rules. Therefore, there is no one-size-fits-all solution or approach. The legal framework, action plan and capacity-building programs may and should be customized at the national levels, depending on the various levels of awareness and preparedness of different member States, as already envisaged in Article 6, 12 and 14 of the Framework Agreement.

Accordingly, the questions included in this section of the checklist attempt to learn what approaches and priorities are in a particular country's legal regime on (1) liability, (2) dispute settlement, (3) intellectual property, (4) electronic payment and (5) competition issues that may arise in relation to cross-border paperless trade implementation. These are not exhaustive, and other legal issues may emerge.

<i>Legal matters</i>	<i>Focus Questions</i>	<i>Response</i>
Related provisions of the Framework Agreement:		
<ul style="list-style-type: none"> ○ Article 6: National policy framework, enabling domestic legal environment and paperless trade committee ○ Article 10: Relation to other legal instruments enabling cross-border paperless trade ○ Article 12: Action plan ○ Article 14: Capacity-building 		
<i>The first block of questions aims to ascertain the legal liability of the parties operating in a Single Window or other paperless trade system.</i>		
1. Liability issues related to operations of cross-border	○ Can public authorities (e.g. government agencies) accept liability in relation to their	No information about the possibly special legal position of government or other public authorities.

<p>paperless trade systems, including cross-border paperless trade transactions (Liability includes liability for inaccurate data, loss of data, delay, programming error and machine learning errors.)</p>	<p>role in cross-border paperless transactions? If so, is there a limitation on their liability? Is the limitation statutory or contractual?</p> <ul style="list-style-type: none"> ○ May Single Window operators be liable with respect to their services? To whom? If so, is there a limitation on their liability? Is the limitation statutory or contractual? ○ ○ Do paperless trade service providers accept liability arising from their role in cross-border paperless transactions? If so, is there a limitation on their liability? Is the limitation statutory or contractual? ○ Is the potential liability of other parties involved in cross-border paperless trade facilitation clearly established? 	<p>In any case, the Civil Code of Mongolia, and notably article 497, is the main source of rules of liability in the country.⁵⁵</p> <p>The Electronic Signature Law of 2011 provides: Art. 19 If damages to certificate holders or receivers are caused by a certification agency due to its non-compliance with its obligations and the agency is not subject to criminal liabilities, then the agency shall compensate for the damages and an authorized body shall fine it up to 500 000 tug. (<i>paraphrase</i>)</p> <p>Fraudulent uses of certificates and applications for them under false pretences are also punishable under this Law (art 20 and 21).</p> <p>Possibly. There is no express limitation of liability</p> <p>Possibly. There is no information, but there are no cross-border paperless transactions at the moment.</p> <p>No. Foreign parties may be hard to hold liable for damages caused in Mongolia.</p> <p>No.</p>
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⁵⁵ Civil Code of Mongolia, 2002, Part IV Chapter 52, available from: <http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/45607/83813/F1625063101/MNG45607.pdf>

	<ul style="list-style-type: none"> ○ Are there clear laws on intermediary liability in relation to their responsibility for information and data passing through their systems? 	
<i>The second block of questions aims to examine the dispute settlement mechanisms for the operators of a Single Window or other paperless trade system.</i>		
2. Dispute settlement considerations for cross-border paperless trade transactions; Legal issues related to conflict of laws in cross-border transactions	<ul style="list-style-type: none"> ○ Do national laws clearly set out how choice of forum and choice of law issues relevant for paperless trade facilitation are determined? Are these laws specifically applicable to paperless trade or cross-border trade, or of general application? Have they been applied in practice to paperless trade? Are they based on international models? ○ Is arbitration possible? Are domestic and foreign arbitral awards enforceable? 	<p>No.</p> <p>Yes. Mongolia has a general law on arbitration for both international and domestic purposes, and it has implemented the UNCITRAL Model Law on International Commercial Arbitration.: https://www.legalinfo.mn/law/details/12456?lawid=12456</p> <p>Yes, in principle. Mongolia is party to the New York Convention - but support for binding international arbitration has not penetrated local Mongolian agencies responsible for executing judgments. (https://www.pwc.de/de/internationale-maerkte/assets/doing-business-in-mongolia-2015.pdf)</p>
<i>The third block of questions aims to examine intellectual property issues involved in a Single Window or other paperless trade system.</i>		
3. Intellectual property rights and data base ownership issues, including the ownership of data and information stored or archived in the cross-border paperless trade system	<ul style="list-style-type: none"> ○ Do the law or contractual agreements define who owns the data in a cross border paperless trade system and how the IP and the database can be used? 	<p>No. Law on Patents: https://www.legalinfo.mn/law/details/440?lawid=440 (includes industrial design) IPOM (Intellectual Property Office of Mongolia) notes: our Law on Infringements (2017) provides that action is complaint based. There is an Application form for citizens to fill out to complain. The Application form (on paper) is prescribed as an appendix to the</p>

		<p>regulation approved by the joint decree of Customs & IPO. However, the form must be printed to use it.</p> <p>According to a study by PWC: Mongolia has joined the World Intellectual Property Organization (WIPO) and signed and ratified most treaties and conventions, including the WTO TRIPS agreement. The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), collectively known as The WIPO Internet Treaties, were signed and subsequently ratified on 25 July 2002. Under TRIPS and Mongolian law, the Mongolian Customs Authority and the Economic Crimes Unit of the National Police (ECU) also have an obligation to protect IPR. The Mongolian Customs Authority may deny the entry of goods having disputed IPRs at the border, based on a petition by the owner of the relevant IPRs. The ECU has the exclusive power to conduct criminal investigations and bring criminal charges against IPR pirates. The IPOM has the administrative authority to investigate and seize fakes without court order. Of these three, the IPOM makes the most consistent effort to fulfill its mandates.⁵⁶</p>
<p><i>The fourth block of questions aims to examine the use of electronic payments in a Single Window or other paperless trade system.</i></p>		
<p>4. Examination of banking/payments law for electronic payments in the cross-border paperless trade system</p>	<ul style="list-style-type: none"> ○ Does the national Single Window or paperless trade system accept electronic payments? Does the government or state agencies accept them? If yes, are electronic payments restricted to a specific method or provider (e.g., credit cards or an exclusive bank)? 	<p>Partially. Work in progress.</p> <p>CITA's policy is to accept electronic payment services for all government electronic services.</p> <p>The Bank of Mongolia has developed a law on electronic payments, the Law on National Payment System, which was adopted in 2017 and came into force on January 1, 2019.⁵⁷</p>

⁵⁶ PWC, "Doing Business in Mongolia 2015", available from: <https://www.pwc.de/de/internationale-maerkte/assets/doing-business-in-mongolia-2015.pdf>

⁵⁷ Available from: <https://www.legalinfo.mn/law/details/12668?lawid=12668>

		<p>For customs, it is possible to pay the customs duty or tax electronically. In 2015, they have created e-payment system with the support of USAID (funding).</p> <p>Customs payments can be made through banks. Brokers present a bar-coded invoice to the bank, and the bank's transfer of funds to Customs shows up on an account that Customs can access electronically. No paper receipt needs to be taken to Customs, and the goods can be released by electronic order.</p> <p>However, this system seems to apply neither to the general inspection agency, nor to cross-border payments. For many purposes, the banks still rely on paper documents to justify payments. Letters of credit transactions, an important element of cross-border trade, are still done entirely on paper.</p> <p>The service fees or payment of the border inspection agency (GASI) cannot be paid electronically.</p> <p>For the domestic market, there are new mobile banking applications, but they are not focused on foreign traders.</p> <p>Under the banking law, currently all transactions which are accredited payment, and other export and import payments are made based on paper documents such as invoice, packing list, bill of lading and trade contract.</p> <p>Otherwise the banks receive all documents by paper from customers and make the payments against these documents.</p>
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The fifth block of questions aims to examine the competition law issues involved in a Single Window or other paperless trade system.

<p>5. Competition law issues, including treaties and conventions, and General Agreement on Tariffs and Trade (GATT)/World Trade Organization (WTO) requirements applicable to the cross-border paperless trade system</p>	<ul style="list-style-type: none"> ○ Is competition law applicable to Single Window operators or other paperless trade services providers? 	<p>Yes. Because it is of general application. No specific references at this time.</p>
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Annex V. Options for electronic signatures

Simpler signatures

Article 5 of the Electronic Signature Law appears to allow for simpler e-signatures, that is, those that are not digital signatures using public key cryptography. Indeed, the simple electronic signature is said to be “an equivalent to handwritten signatures.” Compare the effect of the much more complex digital signature (article 6.1): “shall be treated as equivalent to regular signature.” In other words, the legal effect of the two methods of signing electronically are said to be the same. The difference is when one is allowed or encouraged to use the more complex method. Article 5 does lead with the qualification “unless otherwise stated in the law.” One needs to consider the Civil Code and the Law on Electronic Commerce article 43.2.4 in this context. (See the legal checklist item 1.a.)

Authentication can be done in many ways – in principle – so any means of ensuring that the signature was applied by the person purporting to have done it could be enough. Such methods could include the content of the message, a history of dealing between the parties to the contract, an analysis of the metadata of the electronic messages (information about the computers on which they were composed or through which they were sent), stylistic characteristics, and the place of the message in a sequence of discussions about particular transactions.

Leaving this kind of flexibility for at least some electronic signatures is useful to businesses. They may not wish to go to the formality and expense of creating an electronic digital signature for routine transactions, especially where they trust the other party to the transaction or have a history of dealing successfully with it.

Likewise, the customers of online businesses may find it easier to deal with them if they do not need to use a full-scale official electronic digital signature to do so. Thus, the availability of a simpler but still legally effective e-signature can promote e-commerce, and a broad familiarity with e-commerce paves the way for acceptance of paperless trade generally, domestic and international.

Hybrid signatures

However, it may also be that communications with government agencies and possibly with banks or other sensitive parties may require more secure authentication, of the type offered by an electronic digital signature. Governments often, if not always, insist on receiving electronic communications supported by an electronic digital signature (and they are required by law in Mongolia to use digital signatures themselves.)

For example, Mongolian communications from an “information controller” (a state authority) is governed by the Transparency of Information Law 2011. The information controller sends information in electronic form (if it is requested in that form) with a digital signature of the official sending it.⁵⁸ And the citizen requesting the information has to do so with his/her national ID card. Thus, extra security is required at each end of the communication.

Most uses of PKI certificates in Mongolia are for official purposes. The Communications and Information Technology Authority (CITA) estimates that about 8500 certificates have been issued to date, largely to public sector users. The main uses are for electronic procurement, electronic taxes and electronic social insurance matters. There is little private sector use so far. However, the certificates are available to businesses if they want them.⁵⁹ They would be mainly used as a method of authenticating an individual in a business relationship.

Many countries have adopted legislation on this subject that has been described as “hybrid,” that is, allowing technology-neutral signatures with few fixed standards for many private communications but

⁵⁸ Transparency of Information Law, 2011, available from: <http://www.crc.gov.mn/en/k/xb/1q>. See article 15.

⁵⁹ Interview with the Communications and Information Technology Authority, November 27, 2018.

also providing for more technology-specific signature processes for more important or more official purposes. Examples of such legislation are found in Singapore, Hong Kong and the European Union.

The more demanding kind of signature – the digital signature – is called for when special reliability is needed. The need for this kind of reliability works in both directions, as well. It is just as important for businesses and citizens communicating with government to be confident that what they are receiving from official sources are in fact coming from those sources, as it is for government to get reliable information with reliable attribution from those on official business.

That said, it is likely that Mongolian users of electronic communications, particularly in private transactions, including cross-border transactions, would benefit from the flexibility that the statute appears to allow in how they sign such communications without losing legal effect. To the extent that the current legislation – or its application in practice - do not allow such flexibility, law reform should be considered to move in this direction.

On the other hand, a number of people interviewed in Mongolia believed that the barriers to use of e-communications were not legal but technological. People were ready to use such communications and the law was not perceived as a barrier. The infrastructure was simply not yet available.

Other considerations about e-signatures

Whether electronic signing methods are prescribed by law or allowed to be more flexible, those deciding what will be used should keep some other criteria in mind as well as those in the current legal texts.

For example, how secure is the method against outside interference? Can the e-signature system be hacked, so that someone else could use it to generate signatures or to impersonate the signatory? The participation of certification service providers and certification centres are intended to reduce such a risk. If private choice is allowed for some e-signatures, then this risk will influence the choice of method.

A signature created through public key cryptography is not necessarily immune to hacking. While the mathematics behind the cryptography is strong, the signatures are generated on the signer's computers, and they are usually accessible by a user name and password. Requiring the signer's ID card to be present at the time of signature or as part of the signature, as we have seen is sometimes required in Mongolia, increases the reliability of the signature, but cards may be lost or stolen, as can computers. This is not an argument for abandoning secure signatures of this kind; it is simply a caution against overconfidence.

The statute makes an e-document with an electronic or a digital signature the legal equivalent of a signed paper document. However, some government agencies insist on receiving paper versions of documents along with the electronic ones. They treat the electronic versions as a copy of the original paper, which is inefficient and contrary to the policy of the statute.

Annex VI. International standards and guidelines for cross-border paperless trade

UNCITRAL

The United Nations Commission on International Trade Law (UNCITRAL) has adopted three model laws on different aspects of paperless trade, of which the best known and most widely implemented around the world is the UNCITRAL Model Law on Electronic Commerce of 1996.⁶⁰ It also created the UN Convention on the Use of Electronic Communications in International Contracts, in 2005.⁶¹ All the UNCITRAL instruments embody the same principles: functional equivalence; technology neutrality; and non-discrimination.

According to the UNCITRAL Model Law and the Convention, the functional equivalent of a document in writing is electronic information that is “accessible so as to be usable for subsequent reference.”⁶² In other words, the “function” of a writing requirement is to support memory, so that one can read again what was written.

A significant benefit to the Convention is the provision (article 20(2)) that allows a contracting state to declare that it will apply the Convention’s principles (functional equivalence and the others) in applying any other convention to which it is a party (specifically or in general). So, if any trade-related conventions to which Mongolia is a party do not expressly allow for paperless communications, Mongolia could nevertheless use the E-Communications Convention to open the others up to such communications.

Mongolia’s current laws on electronic documents and signatures do not accord with the UNCITRAL rules, on their face. There is no express rule validating any kind of electronic document, independent of a signature. They make electronic and digital signatures valid in many cases. In particular, they require certain users of documents (notably state bodies) to use digital signatures to sign them – suggesting that if they do not bear such a signature, they are ineffective.

It is worth considering whether Mongolia would be well served by a hybrid system inspired by the UNCITRAL Model Law on Electronic Signatures. That would involve expanding the legally effective uses of the non-digital signature, since the digital signature system is already in place. At present, Mongolia has in effect a hybrid system but with an underdeveloped “simple” electronic signature. If Mongolia is to reaffirm its e-signature framework, then the Model Law on Electronic Signatures as well as the Electronic Communications Convention offer advantages as models.

CEFACT

The UN Centre for Trade Facilitation and Electronic Business of the United Nations Economic and Social Commission for Europe (UN/CEFACT)⁶³ has published numerous guidelines to different aspects of cross-border electronic communications. Its list includes a number of recommendations on aspects of electronic commerce, from the days of EDI (electronic data interchange) to the present.⁶⁴

⁶⁰ Official material on the Model Law on Electronic Commerce is available from: http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce/1996Model.html. The others are the Model Law on Electronic Signatures (2001) http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce/2001Model_signatures.html and the Model Law on Electronic Transferable Records (2017) http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce/2017model.html.

⁶¹ Official material on the Convention is here: http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce/2005Convention.html

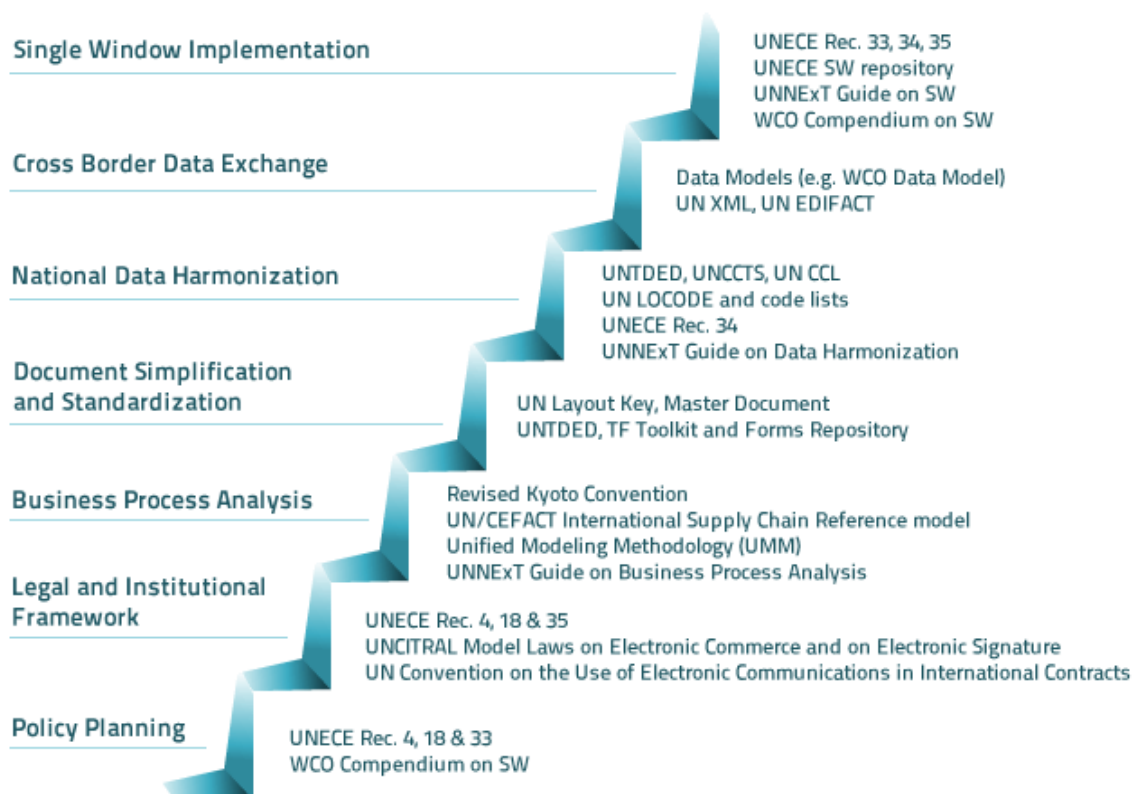
⁶² Model Law on Electronic Commerce, article 6.

⁶³ UN/CEFACT, available from: <https://www.unece.org/cefact/>

⁶⁴ The list of its Recommendations is available from: <http://www.unece.org/tradewelcome/un-centre-for-trade-facilitation-and-e-business-uncifact/outputs/cefactrecommendationsrec-index/trade-facilitation-recommendations.html> Each item on the list expands to a brief overview of its topic.

As noted earlier, Mongolia is working on a Single Window, and had some domestic services connected electronically. They are not yet tied to the Customs administration or, apparently, used for any non-domestic purpose for the moment. When it does get to that stage – which it intends to do – then the CEFACT documents will be relevant. They are guidelines, not firm rules; they are not intended to be statutes. However, they arguably represent the international state-of-the-art consensus on best practices in designing and operating Single Window systems. To the extent that Mongolia and its trading partners take inspiration from the CEFACT Recommendations, they will increase the chances that their systems will work together smoothly.

Here is a schematic of the steps for building a Single Window system, showing the legal and operational references applicable at each step.



[source: CEFACT: <http://tfig.unece.org/contents/single-window-implementation.htm>]

ESCAP and UNNExT

ESCAP has over the years published a great deal of advice on paperless trade and on Single Windows. Its main vehicle for doing so is the United Nations Network of Experts for Paperless Trade and Transport in Asia and the Pacific, known as UNNExT.⁶⁵

Members of ESCAP should take advantage of their world-class regional expertise in such matters, both in creating or verifying their own intellectual and policy frameworks for their efforts in facilitating paperless trade and Single Windows, and in participating in pushing the concepts further in collaboration with the other members of ESCAP and UNNExT.

Of the studies and reports available, it may make sense to start with three in particular:

- *Electronic Single Window Legal Issues: A Capacity-Building Guide* (2012)⁶⁶

⁶⁵ A list of relevant studies and reports is available from: <https://unnex.t.unescap.org/reports-studies>

⁶⁶ Available from https://www.unescap.org/sites/default/files/0%20-%20Full%20Report_4.pdf

- *Single Window Implementation and Planning Guide* (2012).⁶⁷
- *Trade Facilitation and Paperless Trade Implementation in Asia and the Pacific Regional Report 2017*.⁶⁸ It should be read in conjunction with subregional supplements – so Mongolia, for example, would want to study the CAREC supplement about itself and its North East Asia neighbours and their own priorities and challenges.⁶⁹

One of the areas of principal focus at UNNExT and ESCAP, and one of the key provisions of the Framework Agreement, is the methods by which paperless trade documents can be recognized across national borders. This is of course a key element – perhaps the key element – in making cross-border paperless trade work in practice. Careful attention should be paid to developments at ESCAP on the topic. Mongolia may wish to be part of the working groups developing the relevant rules.

⁶⁷ Available from : https://www.unescap.org/sites/default/files/0%20-%20Full%20Report_5.pdf

⁶⁸ Available from: https://www.unescap.org/sites/default/files/Regional_Report%20-%20v3%2B%2B.pdf

⁶⁹ The CAREC report is available from: <https://www.unescap.org/sites/default/files/ESCAP%20TFA%20and%20Paperless%20Trade%20for%20CAREC%20-%20edited%2013Nov18.pdf>

Annex VII. Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific

The Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific (“Framework Agreement”) was adopted as a UN treaty on 19 May 2016, deposited with the Secretary General of the United Nations in New York.⁷⁰ More than 25 countries participated in the development and negotiation of the Agreement.⁷¹ It is designed as an inclusive and enabling platform that will benefit all participating economies regardless of where they stand in terms of trade facilitation or Single Window/paperless trade implementation.

Paperless trade makes international trade more efficient and transparent while improving regulatory compliance, particularly if trade-related data and documents in electronic form are exchanged across borders. The Framework Agreement, by supporting the region’s progress towards cross-border paperless trade, could bring benefit to parties such as:

- Accelerated progress towards a digital and paperless trade environment.
- Opportunity to integrate emerging cross-border paperless trade considerations and best practices early in the development of national single window and other paperless trade systems.
- Easier access to information, knowledge and resources to achieve full digital implementation of the WTO Trade Facilitation Agreement.
- Reduction in overall investment costs and maximization of return from investments in paperless trade systems.
- Increased opportunities for capacity building through trainings, workshops and knowledge-sharing platforms.
- Compliance with commitments the party may have made through in its bilateral and plurilateral trade agreements to collaborate on exchanging electronic of data and documents.
- Ready access to potential counterpart countries interested to negotiate and achieve cross border data exchange.
- Direct participation in the development of pragmatic solutions for the cross-border exchange of trade documents.

According to a study conducted in 2014, achieving at least partial implementation of cross-border paperless trade in Mongolia, could boost exports by 19 %.⁷² A more recent study suggests that Mongolia could achieve trade cost reductions of about 30% if it fully implemented WTO TFA measures together with cross-border paperless trade – in contrast, simply achieving WTO TFA compliance would reduce costs by about 10%.⁷³

⁷⁰ Text of the Framework Agreement can be found here: <https://www.unescap.org/resources/framework-agreement-facilitation-cross-border-paperless-trade-asia-and-pacific>

⁷¹ For the list of countries that have officially nominated focal points (i.e., which means they were actively involved) see: <http://communities.unescap.org/cross-border-paperless-trade-facilitation/national-focal-points-resolutions-683-and-706>

⁷² ESCAP (2014). Estimating the Benefits of Cross-Border Paperless Trade. Available from:

<https://www.unescap.org/sites/default/files/Benefits%20of%20Cross-Border%20Paperless%20Trade.pdf>

⁷³ ESCAP (2017). Digital Trade facilitation in Asia and the Pacific. Studies in Trade, Investment and Innovation, No. 87. Available from <https://www.unescap.org/publications/digital-trade-facilitation-asia-and-pacific-studies-trade-investment-and-innovation-87>

Trade, investment and innovation are powerful engines for growth and sustainable development. The expansion of trade across the Asia-Pacific in recent years has been a key driver of economic dynamism and rising prosperity. Trade and investment, for example through participation in global networks of production, have created employment, raised incomes and helped spread knowledge and technology throughout the region. But not all individuals and communities have been able to benefit from the growth that comes from engagement in international markets, and too many barriers to inclusion remain.

ESCAP's objective is to promote trade, investment and technology and innovation for inclusive and sustainable development in the Asia-Pacific region. We work with Member States to ensure that the benefits of trade, investment, technology and innovation are extended to all.

For more information on TIID work:

<http://unescap.org/tii>